



2016/0288(COD)

AMENDMENTS

145 - 295

Draft report
Pilar del Castillo Vera
(PE601.017v01-00)

European Electronic Communications Code (Recast)

Proposal for a directive
(COM(2016)0590 – C8-0379/2016 – 2016/0288(COD))

Amendment 145
Notis Marias

Proposal for a directive
Citation 1 a (new)

Text proposed by the Commission

Amendment

*έχοντας υπόψη το Πρωτόκολλο (αριθμ.1)
της Συνθήκης για τη Λειτουργία της
Ευρωπαϊκής Ένωσης (ΣΛΕΕ) σχετικά με
το ρόλο των Εθνικών Κοινοβουλίων στην
Ευρωπαϊκή Ένωση,*

Or. el

Amendment 146
Notis Marias

Proposal for a directive
Citation 1 b (new)

Text proposed by the Commission

Amendment

*έχοντας υπόψη το Πρωτόκολλο (αριθμ.2)
της Συνθήκης για τη Λειτουργία της
Ευρωπαϊκής Ένωσης (ΣΛΕΕ) σχετικά με
την εφαρμογή των αρχών της
επικουρικότητας και της αναλογικότητας,*

Or. el

Amendment 147
Barbara Kappel, Angelo Ciocca, Lorenzo Fontana

Proposal for a directive
Citation 3

Text proposed by the Commission

Amendment

After transmission of the draft legislative
act to the national parliaments,

After transmission of the draft legislative
act to the national parliaments, *having
regard to their reasoned opinions,*

Or. en

Amendment 148
Morten Helveg Petersen

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) In the Digital Single Market strategy, the Commission outlined that the review of the telecoms framework will focus on measures that aim at incentivising investment in high-speed broadband networks, bring a more consistent single market approach to spectrum policy and management, deliver conditions for a true single market by tackling regulatory fragmentation, ensure a level playing field for all market players and consistent application of the rules, as well as provide a more effective regulatory institutional framework.

Amendment

(3) In the Digital Single Market strategy, the Commission outlined that the review of the telecoms framework will focus on measures that aim at incentivising investment in high-speed broadband networks, bring a more consistent single market approach to spectrum policy and management, deliver conditions for a true single market by tackling regulatory fragmentation, ensure ***an effective protection of consumers***, a level playing field for all market players and consistent application of the rules, as well as provide a more effective regulatory institutional framework. ***The Digital Single Market Strategy for Europe also announced the review of Directive 2002/58/EC in order to provide a high level of privacy protection for users of electronic communications services and a level playing field for all market players;***

Or. en

Amendment 149
Morten Helveg Petersen

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) this Directive should create a legal framework to ensure the freedom to provide electronic communications networks and services, subject only to the conditions laid down in this Directive and to any restrictions in conformity with Article 52 (1) of the Treaty, in particular measures regarding public policy, public security and public health.

Amendment

(5) This Directive should create a legal framework to ensure the freedom to provide electronic communications networks and services, subject only to the conditions laid down in this Directive and to any restrictions in conformity with Article 52 (1) of the Treaty, in particular measures regarding public policy, public security and public health, ***and with Article***

Amendment 150
Morten Helveg Petersen

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The provisions of this Directive are without prejudice to the possibility for each Member State to take the necessary measures justified on grounds set out in Articles 87 and 45 of the Treaty on the Functioning of the European Union, to ensure the protection of its essential security interests, to safeguard public policy, **public morality** and public security, and to permit the investigation, detection and prosecution of criminal offences.

Amendment

(6) The provisions of this Directive are without prejudice to the possibility for each Member State to take the necessary measures justified on grounds set out in Articles 87 and 45 of the Treaty on the Functioning of the European Union, to ensure the protection of its essential security interests, to safeguard public policy and public security, and to permit the investigation, detection and prosecution of criminal offences, **taking into account that such measures must be provided for by law, respect the essence of the rights and freedom recognised by the Charter and be subject to the principle of proportionality, in accordance with Article 52 (1) of the Charter.**

Amendment 151
Michal Boni

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) The convergence of the telecommunications, media and information technology sectors means that all electronic communications networks and services should be covered to the

Amendment

(7) The convergence of the telecommunications, media and information technology sectors means that all electronic communications networks and services should be covered to the

extent possible by a single European Electronic Communications Code established by a single Directive, with the exception of matters better dealt with through directly applicable rules established through regulations. It is necessary to separate the regulation of electronic communications networks and services from the regulation of content. This Code does not therefore cover the content of services delivered over electronic communications networks using electronic communications services, such as broadcasting content, financial services and certain information society services, and is therefore without prejudice to measures taken at Union or national level in respect of such services, in compliance with Union law, in order to promote cultural and linguistic diversity and to ensure the defence of media pluralism. The content of television programmes is covered by Directive 2010/13/EU of the European Parliament and of the Council²¹. The regulation of audiovisual policy and content aims at achieving general interest objectives, such as freedom of expression, media pluralism, impartiality, cultural and linguistic diversity, social inclusion, consumer protection and the protection of minors. The separation between the regulation of electronic communications and the regulation of content does not prejudice the taking into account of the links existing between them, in particular in order to guarantee media pluralism, cultural diversity and consumer protection.

²¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media
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extent possible by a single European Electronic Communications Code established by a single Directive, with the exception of matters better dealt with through directly applicable rules established through regulations. It is necessary to separate the regulation of electronic communications networks and services from the regulation of content. This Code does not therefore cover the content of services delivered over electronic communications networks using electronic communications services, such as broadcasting content, financial services and certain information society services, and is therefore without prejudice to measures taken at Union or national level in respect of such services, in compliance with Union law, in order to promote cultural and linguistic diversity and to ensure the defence of media pluralism. The content of television programmes is covered by Directive 2010/13/EU of the European Parliament and of the Council²¹. The regulation of audiovisual policy and content aims at achieving general interest objectives, such as freedom of expression, media pluralism, impartiality, cultural and linguistic diversity, social inclusion, consumer protection and the protection of minors. ***However, it is intended that unless explicitly excluded from the scope of application of the Code, electronic communications networks and services should be covered by this Code.*** The separation between the regulation of electronic communications and the regulation of content does not prejudice the taking into account of the links existing between them, in particular in order to guarantee media pluralism, cultural diversity and consumer protection.

²¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media

Services Directive) (OJ L 95, 15.4.2010, p. 1).

Services Directive) (OJ L 95, 15.4.2010, p. 1).

Or. en

Justification

Any obligation should comply with the principle of proportionality.

Amendment 152
Morten Helveg Petersen

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) The convergence of the telecommunications, media and information technology sectors means that all electronic communications networks and services should be covered to the extent possible by a single European Electronic Communications Code established by a single Directive, with the exception of matters better dealt with through directly applicable rules established through regulations. It is necessary to separate the regulation of electronic communications networks and services from the regulation of content. This Code does not therefore cover the content of services delivered over electronic communications networks using electronic communications services, such as broadcasting content, financial services and certain information society services, and is therefore without prejudice to measures taken at Union or national level in respect of such services, in compliance with Union law, in order to promote cultural and linguistic diversity and to ensure the defence of media pluralism. The content of television programmes is covered by Directive 2010/13/EU of the European Parliament and of the *Council*²¹. The regulation of audiovisual policy and content aims at achieving general interest objectives, such as freedom of expression,

Amendment

(7) The convergence of the telecommunications, media and information technology sectors means that all electronic communications networks and services should be covered to the extent possible by a single European Electronic Communications Code established by a single Directive, with the exception of matters better dealt with through directly applicable rules established through regulations. It is necessary to separate the regulation of electronic communications networks and services from the regulation of content. This Code does not therefore cover the content of services delivered over electronic communications networks using electronic communications services, such as broadcasting content, financial services and certain information society services, and is therefore without prejudice to measures taken at Union or national level in respect of such services, in compliance with Union law, in order to promote cultural and linguistic diversity and to ensure the defence of media pluralism. The content of television programmes is covered by Directive 2010/13/EU of the European Parliament and of the *Council*²¹. The regulation of audiovisual policy and content aims at achieving general interest objectives, such as freedom of expression,

media pluralism, impartiality, cultural and linguistic diversity, social inclusion, consumer protection and the protection of minors. The separation between the regulation of electronic communications and the regulation of content does not prejudice the taking into account of the links existing between them, in particular in order to guarantee media pluralism, cultural diversity *and consumer* protection.

media pluralism, impartiality, cultural and linguistic diversity, social inclusion, consumer protection and the protection of minors. The separation between the regulation of electronic communications and the regulation of content does not prejudice the taking into account of the links existing between them, in particular in order to guarantee *freedom of expression and information*, media pluralism, cultural diversity, *consumer protection, privacy and the* protection of *personal data*.

²¹ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

Or. en

Amendment 153
Pervenche Berès, Edouard Martin

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 bis) Les États membres doivent pouvoir garantir aux citoyens un accès universel à un large éventail d'informations et de contenu de qualité, assurés par les fournisseurs de services de médias, dans l'intérêt du pluralisme des médias, de la diversité culturelle et d'une citoyenneté active et informée, et ce, quelle que soit l'évolution du système de distribution des médias et des modèles commerciaux y afférent.

Or. fr

Amendment 154

Miapetra Kumpula-Natri, Dan Nica, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) Member States should be able to ensure, in the interest of media pluralism and cultural diversity and an informed citizenship that citizens have universal access to a wide range of information and public value content provided by media service providers, in line with the evolution of media distribution systems and related business models.

Or. en

Justification

We must update must-carry obligations and access rules, as proposed in article 106.

Amendment 155

Eva Kaili

Proposal for a directive

Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) Member States should be able to ensure, in the interest of media pluralism and cultural diversity and an informed citizenship that citizens have universal access to a wide range of information and public value content provided by media service providers, in line with the evolution of media distribution systems and related business models.

Or. en

We must update must-carry obligations and access rules, as proposed in article 106.

Amendment 156

Anna Záborská, Ivan Štefanec

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters *which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to a multi-dwelling building, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location.*

Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, *other* technologies *and* transmission media

Amendment

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand *for unconstrained use* is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters *that are capable of delivering at least 100 Mbps downlink speed upgradable over time to gigabit speeds and contribute to achieving continuous 5G coverage not taking into account* variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, *no* technologies *or* transmission media should be excluded. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

should *not* be excluded, *where they compare with this baseline scenario in terms of their capabilities*. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

Or. en

Amendment 157

Herbert Reul, Markus Pieper, Angelika Niebler

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) Die Anforderungen an das Leistungsvermögen elektronischer Kommunikationsnetze wachsen stetig. Während der Schwerpunkt in der Vergangenheit vor allem auf der höheren **Bandbreite** lag, die im Allgemeinen und jedem einzelnen Nutzer zur Verfügung stand, gewinnen heute Parameter wie Latenz, Verfügbarkeit und **Zuverlässigkeit** an Bedeutung. Derzeit wird auf diese Nachfrage reagiert, indem Glasfaserkabel zunehmend in der Nähe des Nutzers verlegt werden; „Netze mit sehr hoher Kapazität“ werden in Zukunft Leistungsparameter erfordern, die jenen eines Netzes entsprechen, das zumindest bis zum Verteilerpunkt am Ort der Nutzung aus Glasfaserkomponenten besteht. Bei Festnetzanschlüssen entspricht dies einer Netzleistung, die eine Glasfaserinstallation bis zu einem **Mehrfamilienhaus** als Ort der Nutzung bieten kann, und bei mobilen Verbindungen einer Netzleistung, die mit der einer Glasfaserinstallation bis zur Basisstation als Ort der Nutzung vergleichbar ist. Unterschiedliche Endnutzererfahrungen, die auf die verschiedenen Merkmale des Mediums

Amendment

(13) Die Anforderungen an das Leistungsvermögen elektronischer Kommunikationsnetze wachsen stetig **und werden auch in Zukunft unentwegt steigen**. Während der Schwerpunkt in der Vergangenheit vor allem auf der höheren **Down- und Uplink-Bandbreite** lag, die im Allgemeinen und jedem einzelnen Nutzer zur Verfügung stand, gewinnen heute Parameter wie Latenz, Verfügbarkeit und **Störfestigkeit** an Bedeutung. Derzeit wird auf diese Nachfrage reagiert, indem Glasfaserkabel zunehmend in der Nähe des Nutzers verlegt werden; „Netze mit sehr hoher Kapazität“ werden in Zukunft Leistungsparameter erfordern, die jenen eines Netzes entsprechen, das zumindest bis zum Verteilerpunkt am Ort der Nutzung aus Glasfaserkomponenten besteht. Bei Festnetzanschlüssen entspricht dies einer Netzleistung, die eine Glasfaserinstallation bis zu einem **Gebäude** als Ort der Nutzung bieten kann, und bei mobilen Verbindungen einer Netzleistung, die mit der einer Glasfaserinstallation bis zur Basisstation als Ort der Nutzung vergleichbar ist. Unterschiedliche Endnutzererfahrungen, die auf die verschiedenen Merkmale des Mediums

zurückzuführen sind, über das das Netz letztlich mit dem Netzabschlusspunkt verbunden ist, sollten nicht berücksichtigt werden, wenn es darum geht zu bestimmen, ob einem Drahtlosnetz eine ähnliche Netzleistung zugeschrieben werden kann. Im Einklang mit dem Grundsatz der Technologieneutralität sollten andere Technologien und Übertragungsmedien nicht ausgeschlossen werden, sofern sie *hinsichtlich ihres Leistungsvermögens mit dem Basisszenario zu vergleichen sind*. Der Ausbau solcher „Netze mit sehr hoher Kapazität“ wird das Leistungsvermögen von Netzen weiter erhöhen und den Weg für künftige Generationen von Mobilfunknetzen auf der Grundlage erweiterter Luftschnittstellen und einer stärker verdichteten Netzarchitektur ebnen.

zurückzuführen sind, über das das Netz letztlich mit dem Netzabschlusspunkt verbunden ist, sollten nicht berücksichtigt werden, wenn es darum geht zu bestimmen, ob einem Drahtlosnetz eine ähnliche Netzleistung zugeschrieben werden kann. Im Einklang mit dem Grundsatz der Technologieneutralität sollten andere Technologien und Übertragungsmedien nicht ausgeschlossen werden, sofern sie *mindestens dasselbe Leistungsvermögen wie Glasfaser in Bezug auf die verfügbare Down- und Uplink-Bandbreite, Latenz, Verfügbarkeit und Störfestigkeit aufweisen*. Der Ausbau solcher „Netze mit sehr hoher Kapazität“ wird das Leistungsvermögen von Netzen weiter erhöhen und den Weg für künftige Generationen von Mobilfunknetzen auf der Grundlage erweiterter Luftschnittstellen und einer stärker verdichteten Netzarchitektur ebnen. *Um zukünftigen, technischen Entwicklungen Rechnung zu tragen, sollten die Leistungsmerkmale von "Netzen mit sehr hoher Kapazität" in Zukunft angepasst oder ergänzt werden können, sofern dies der Erreichung der Ziele dieser Richtlinie dient.*

Or. de

Justification

In Zukunft werden die Anforderungen an Telekommunikationsinfrastrukturen im industriellen und privaten Bereich unentwegt steigen. Die Förderung des Netzausbaus sollte sich deshalb auf die leistungsfähigste, auf dem Markt verfügbare Technologie fokussieren, um bereits heute die Weichen für eine tragfähige und zukunftsgerichtete Telekommunikationsinfrastruktur zu stellen. Zur Zeit stellen Glasfaserleitungen die State-of-the-Art Technologie in diesem Bereich dar. Trotzdem sollten "Netze mit sehr hoher Kapazität" dynamisch definiert werden und Technologien mit dem gleichen Leistungsvermögen sowie mögliche künftige Entwicklungen ebenfalls berücksichtigen, um Innovationen im Bereich des Netzausbaus anzuregen.

Amendment 158

Angelika Niebler, Markus Pieper, Herbert Reul

Proposal for a directive

Recital 13

(13) Die Anforderungen an das Leistungsvermögen elektronischer Kommunikationsnetze wachsen stetig. Während der Schwerpunkt in der Vergangenheit vor allem auf der höheren Bandbreite lag, die im Allgemeinen und jedem einzelnen Nutzer zur Verfügung stand, gewinnen heute Parameter wie Latenz, Verfügbarkeit und Zuverlässigkeit an Bedeutung. Derzeit wird auf diese Nachfrage reagiert, indem Glasfaserkabel zunehmend in der Nähe des Nutzers verlegt werden; „Netze mit sehr hoher Kapazität“ werden in Zukunft Leistungsparameter erfordern, die jenen eines Netzes entsprechen, das zumindest bis zum Verteilerpunkt am Ort der Nutzung aus Glasfaserkomponenten besteht. Bei Festnetzanschlüssen entspricht dies einer Netzleistung, die eine Glasfaserinstallation bis zu einem Mehrfamilienhaus als Ort der Nutzung bieten kann, und bei mobilen Verbindungen einer Netzleistung, die mit der einer Glasfaserinstallation bis zur Basisstation als Ort der Nutzung vergleichbar ist. Unterschiedliche Endnutzererfahrungen, die auf die verschiedenen Merkmale des Mediums zurückzuführen sind, über das das Netz letztlich mit dem Netzabschlusspunkt verbunden ist, sollten nicht berücksichtigt werden, wenn es darum geht zu bestimmen, ob einem Drahtlosnetz eine ähnliche Netzleistung zugeschrieben werden kann. Im Einklang mit dem Grundsatz der Technologieneutralität sollten andere Technologien und Übertragungsmedien nicht ausgeschlossen werden, sofern sie hinsichtlich ihres Leistungsvermögens mit dem Basisszenario zu vergleichen sind. Der Ausbau solcher „Netze mit sehr hoher Kapazität“ wird das Leistungsvermögen von Netzen weiter erhöhen und den Weg für künftige Generationen von Mobilfunknetzen auf der Grundlage

(13) Die Anforderungen an das Leistungsvermögen elektronischer Kommunikationsnetze wachsen stetig. Während der Schwerpunkt in der Vergangenheit vor allem auf der höheren Bandbreite lag, die im Allgemeinen und jedem einzelnen Nutzer zur Verfügung stand, gewinnen heute Parameter wie Latenz, Verfügbarkeit und Zuverlässigkeit an Bedeutung. Derzeit wird auf diese Nachfrage reagiert, indem Glasfaserkabel zunehmend in der Nähe des Nutzers verlegt werden; „Netze mit sehr hoher Kapazität“ werden in Zukunft Leistungsparameter erfordern, die jenen eines Netzes entsprechen, das zumindest bis zum Verteilerpunkt am Ort der Nutzung aus Glasfaserkomponenten besteht. Bei Festnetzanschlüssen entspricht dies einer Netzleistung, die eine Glasfaserinstallation bis zu einem Mehrfamilienhaus als Ort der Nutzung bieten kann, und bei mobilen Verbindungen einer Netzleistung, die mit der einer Glasfaserinstallation bis zur Basisstation als Ort der Nutzung vergleichbar ist. Unterschiedliche Endnutzererfahrungen, die auf die verschiedenen Merkmale des Mediums zurückzuführen sind, über das das Netz letztlich mit dem Netzabschlusspunkt verbunden ist, sollten nicht berücksichtigt werden, wenn es darum geht zu bestimmen, ob einem Drahtlosnetz eine ähnliche Netzleistung zugeschrieben werden kann. Im Einklang mit dem Grundsatz der Technologieneutralität sollten andere Technologien und Übertragungsmedien nicht ausgeschlossen werden, sofern sie hinsichtlich ihres Leistungsvermögens mit dem Basisszenario zu vergleichen sind. Der Ausbau solcher „Netze mit sehr hoher Kapazität“ wird das Leistungsvermögen von Netzen weiter erhöhen und den Weg für künftige Generationen von Mobilfunknetzen auf der Grundlage erweiterter Luftschnittstellen und einer stärker verdichteten Netzarchitektur ebnen;

erweiterter Luftschnittstellen und einer stärker verdichteten Netzarchitektur ebnen.

zum jetzigen Zeitpunkt bieten die Glasfaserkomponenten die beste verfügbare Netzleistung; die Definition von "Netz mit sehr hoher Kapazität" sollte angesichts der sich wandelnden Technologien und der immer neuen Marktgegebenheiten in der Zukunft entsprechend modifiziert werden können.

Or. de

Justification

Das aus Glasfaserkomponenten bestehende elektronische Kommunikationsnetz bietet derzeit in Bezug auf die entsprechenden Leistungsparameter die beste verfügbare Netzleistung. Dennoch entwickeln sich Technologien weiter und neue Marktgegebenheiten in den einzelnen Mitgliedstaaten entstehen. Aus diesem Grund sollten Änderungen an der aktuell bestehenden Definition in Zukunft möglich sein.

Amendment 159 **Kathleen Van Brempt**

Proposal for a directive **Recital 13**

Text proposed by the Commission

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to a multi-dwelling building, considered as the serving location, and in the mobile connection case to network

Amendment

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to a multi-dwelling building, considered as the serving location, and in the mobile connection case to network

performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location.

To allow for other technologies to improve or evolve, a sole focus on optical fibre should be avoided and the principle of technology neutrality should be respected.

Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

Or. en

Amendment 160

Werner Langen, Sabine Verheyen, Norbert Lins

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) Die Anforderungen an das Leistungsvermögen elektronischer Kommunikationsnetze wachsen stetig. Während der Schwerpunkt in der Vergangenheit vor allem auf der höheren Bandbreite lag, die im Allgemeinen und jedem einzelnen Nutzer zur Verfügung stand, gewinnen heute Parameter wie Latenz, Verfügbarkeit und Zuverlässigkeit

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Amendment

(13) Die Anforderungen an das Leistungsvermögen elektronischer Kommunikationsnetze wachsen stetig. Während der Schwerpunkt in der Vergangenheit vor allem auf der höheren Bandbreite lag, die im Allgemeinen und jedem einzelnen Nutzer zur Verfügung stand, gewinnen heute Parameter wie Latenz, Verfügbarkeit und Zuverlässigkeit

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an Bedeutung. Derzeit wird auf diese Nachfrage reagiert, indem Glasfaserkabel zunehmend in der Nähe des Nutzers verlegt werden; „Netze mit sehr hoher Kapazität“ werden in Zukunft Leistungsparameter erfordern, die jenen eines Netzes entsprechen, das zumindest bis zum Verteilerpunkt am Ort der Nutzung aus Glasfaserkomponenten besteht. Bei Festnetzanschlüssen entspricht dies einer Netzleistung, die eine Glasfaserinstallation bis zu einem Mehrfamilienhaus als Ort der Nutzung bieten kann, und bei mobilen Verbindungen einer Netzleistung, die mit der einer Glasfaserinstallation bis zur Basisstation als Ort der Nutzung vergleichbar ist. Unterschiedliche Endnutzenerfahrungen, die auf die verschiedenen Merkmale des Mediums zurückzuführen sind, über das das Netz letztlich mit dem Netzabschlusspunkt verbunden ist, sollten nicht berücksichtigt werden, wenn es darum geht zu bestimmen, ob einem Drahtlosnetz eine ähnliche Netzleistung zugeschrieben werden kann. Im Einklang mit dem Grundsatz der Technologieneutralität sollten andere Technologien und Übertragungsmedien nicht ausgeschlossen werden, sofern sie hinsichtlich ihres Leistungsvermögens mit dem Basisszenario zu vergleichen sind. Der Ausbau solcher „Netze mit sehr hoher Kapazität“ wird das Leistungsvermögen von Netzen weiter erhöhen und den Weg für künftige Generationen von Mobilfunknetzen auf der Grundlage erweiterter Luftschnittstellen und einer stärker verdichteten Netzarchitektur ebnen.

an Bedeutung. Derzeit wird auf diese Nachfrage reagiert, indem Glasfaserkabel zunehmend in der Nähe des Nutzers verlegt werden; „Netze mit sehr hoher Kapazität“ werden in Zukunft Leistungsparameter erfordern, die jenen eines Netzes entsprechen, das zumindest bis zum Verteilerpunkt am Ort der Nutzung aus Glasfaserkomponenten besteht. Bei Festnetzanschlüssen entspricht dies einer Netzleistung, die eine Glasfaserinstallation bis zu einem Mehrfamilienhaus als Ort der Nutzung bieten kann, und bei mobilen Verbindungen einer Netzleistung, die mit der einer Glasfaserinstallation bis zur Basisstation als Ort der Nutzung vergleichbar ist. Unterschiedliche Endnutzenerfahrungen, die auf die verschiedenen Merkmale des Mediums zurückzuführen sind, über das das Netz letztlich mit dem Netzabschlusspunkt verbunden ist, sollten nicht berücksichtigt werden, wenn es darum geht zu bestimmen, ob einem Drahtlosnetz eine ähnliche Netzleistung zugeschrieben werden kann. Im Einklang mit dem Grundsatz der Technologieneutralität sollten andere Technologien und Übertragungsmedien nicht ausgeschlossen werden, sofern sie hinsichtlich ihres Leistungsvermögens mit dem Basisszenario zu vergleichen sind. ***Da Netze mit sehr hoher Kapazität den Endnutzern dienen sollten, sollte eine Evaluierung ihrer Erfahrungen bezüglich Geschwindigkeit, Latenz oder Zuverlässigkeit durchgeführt werden.*** Der Ausbau solcher „Netze mit sehr hoher Kapazität“ wird das Leistungsvermögen von Netzen weiter erhöhen und den Weg für künftige Generationen von Mobilfunknetzen auf der Grundlage erweiterter Luftschnittstellen und einer stärker verdichteten Netzarchitektur ebnen.

Or. de

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to a multi-dwelling building, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they *compare with this baseline scenario in terms of their capabilities*. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air

Amendment

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to a multi-dwelling building, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they *participate to bridging the geographical digital divide and ensure a cost-efficient upgrade path to high speed connectivity and high quality services in unserved / underserved areas*. The roll-out of such 'very high capacity networks' will further increase the

interfaces and a more densified network architecture.

capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

Or. en

Amendment 162
Kaja Kallas

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which *are* equivalent to what a network *based on* optical *fibre* elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation *up to a multi-dwelling building*, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be

Amendment

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which *meet the needs of the most demanding, digitally intensive end-users*, equivalent to what a network *consisting of* optical elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation *that reaches to individual households or apartments*, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into

considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 163 **Martina Werner**

Proposal for a directive **Recital 13**

Text proposed by the Commission

(13) Die Anforderungen an das Leistungsvermögen elektronischer Kommunikationsnetze wachsen stetig. Während der Schwerpunkt in der Vergangenheit vor allem auf der höheren Bandbreite lag, die im Allgemeinen und jedem einzelnen Nutzer zur Verfügung stand, gewinnen heute Parameter wie Latenz, Verfügbarkeit und Zuverlässigkeit an Bedeutung. Derzeit wird auf diese Nachfrage reagiert, indem Glasfaserkabel zunehmend in der Nähe des Nutzers verlegt werden; „Netze mit sehr hoher Kapazität“ werden in Zukunft Leistungsparameter erfordern, die jenen eines Netzes entsprechen, das zumindest bis zum Verteilerpunkt am **Ort der Nutzung** aus Glasfaserkomponenten

Amendment

(13) Die Anforderungen an das Leistungsvermögen elektronischer Kommunikationsnetze wachsen stetig. Während der Schwerpunkt in der Vergangenheit vor allem auf der höheren Bandbreite lag, die im Allgemeinen und jedem einzelnen Nutzer zur Verfügung stand, gewinnen heute Parameter wie Latenz, Verfügbarkeit und Zuverlässigkeit an Bedeutung. Derzeit wird auf diese Nachfrage reagiert, indem Glasfaserkabel zunehmend in der Nähe des Nutzers verlegt werden; „Netze mit sehr hoher Kapazität“ werden in Zukunft Leistungsparameter erfordern, die jenen eines Netzes entsprechen, das zumindest bis zum Verteilerpunkt am **Geschäfts-, Mehr- oder Einfamilienhaus** aus

besteht. Bei Festnetzanschlüssen entspricht dies einer Netzleistung, die eine Glasfaserinstallation bis zu einem Mehrfamilienhaus als Ort der Nutzung bieten kann, und bei mobilen Verbindungen einer Netzleistung, die mit der einer Glasfaserinstallation bis zur Basisstation als Ort der Nutzung vergleichbar ist. Unterschiedliche Endnutzererfahrungen, die auf die verschiedenen Merkmale des Mediums zurückzuführen sind, über das das Netz letztlich mit dem Netzabschlusspunkt verbunden ist, sollten nicht berücksichtigt werden, wenn es darum geht zu bestimmen, ob einem Drahtlosnetz eine ähnliche Netzleistung zugeschrieben werden kann. Im Einklang mit dem Grundsatz der Technologieneutralität sollten andere Technologien und Übertragungsmedien nicht ausgeschlossen werden, sofern sie hinsichtlich ihres Leistungsvermögens mit dem Basisszenario zu vergleichen sind. Der Ausbau solcher „Netze mit sehr hoher Kapazität“ wird das Leistungsvermögen von Netzen weiter erhöhen und den Weg für künftige Generationen von Mobilfunknetzen auf der Grundlage erweiterter Luftschnittstellen und einer stärker verdichteten Netzarchitektur ebnen.

Glasfaserkomponenten besteht. Bei Festnetzanschlüssen entspricht dies einer Netzleistung, die eine Glasfaserinstallation bis zu einem Mehrfamilienhaus als Ort der Nutzung bieten kann, und bei mobilen Verbindungen einer Netzleistung, die mit der einer Glasfaserinstallation bis zur Basisstation als Ort der Nutzung vergleichbar ist. Unterschiedliche Endnutzererfahrungen, die auf die verschiedenen Merkmale des Mediums zurückzuführen sind, über das das Netz letztlich mit dem Netzabschlusspunkt verbunden ist, sollten nicht berücksichtigt werden, wenn es darum geht zu bestimmen, ob einem Drahtlosnetz eine ähnliche Netzleistung zugeschrieben werden kann. Im Einklang mit dem Grundsatz der Technologieneutralität sollten andere Technologien und Übertragungsmedien nicht ausgeschlossen werden, sofern sie hinsichtlich ihres Leistungsvermögens mit dem Basisszenario zu vergleichen sind. Der Ausbau solcher „Netze mit sehr hoher Kapazität“ wird das Leistungsvermögen von Netzen weiter erhöhen und den Weg für künftige Generationen von Mobilfunknetzen auf der Grundlage erweiterter Luftschnittstellen und einer stärker verdichteten Netzarchitektur ebnen.

Or. de

Amendment 164

Eva Kaili

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are

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Amendment

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are

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becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to **a multi-dwelling building**, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

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Or. en

Justification

Benchmark should not only be buildings but also any premise concerned. Targets for the socio-economic drivers (offices, schools etc...) or the single homes are different and we should be as much inclusive as possible.

Amendment 165

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to **a multi-dwelling building**, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of **such** 'very high capacity networks' **will further increase the capabilities of networks and pave the way for** the roll-out of future mobile network generations based

Amendment

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to **the premises**, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of **fixed** 'very high capacity networks' **in a fibre to the home configuration and their backhaul capabilities will be a prerequisite for the success of** the roll-out of future

on **enhanced air interfaces and** a more densified network architecture.

mobile network generations (**5G**) based on a more densified network architecture.

Or. en

Justification

The overarching objective of the Code is to stimulate the roll-out of networks which can serve the future demands of European businesses and citizens. The term very high capacity network seeks to define what future state of the art electronic communications infrastructure look like. It is suggested to clarify the definition in a way that ensures that very high capacity networks benefit the roll-out of 5G networks in the sense that they provide the backhaul for these mobile networks. Future 5G ultra-dense and heavy traffic cells have to be connected to a backhaul with very high requirements in terms of capacity, latency, and availability. The proposal also takes into account the need to ensure technology neutrality since the definition of very high capacity network is not based on any given technology.

Amendment 166

Michel Reimon

on behalf of the Verts/ALE Group

Marisa Matias, Julia Reda, Cornelia Ernst

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to **a multi-dwelling building**, considered as the serving location, and in the mobile connection case

Amendment

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to **the premises**, considered as the serving location, and in the mobile connection case to network performance

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similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

Or. en

Justification

Clarification that the definition is not limited to a multi-dwelling building, but includes also other premises, such as offices, farms, single houses, homes, etc

Amendment 167

Miapetra Kumpula-Natri, Dan Nica, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive Recital 13

Text proposed by the Commission

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The

Amendment

(13) The requirements concerning the capabilities of electronic communications networks are constantly increasing. While in the past the focus was mainly on growing bandwidth available overall and to each individual user, other parameters like latency, availability and reliability are becoming increasingly important. The

current response towards this demand is bringing optical fibre closer and closer to the user and future 'very high capacity networks' will require performance parameters which are equivalent to what a network based on optical fibre elements at least up to the distribution point at the serving location can deliver. This corresponds in the fixed-line connection case to network performance equivalent to what is achievable by an optical fibre installation up to **a multi-dwelling building**, considered as the serving location, and in the mobile connection case to network performance similar to what is achievable based on an optical fibre installation up to the base station, considered as the serving location. Variations in end-users' experience which are due to the different characteristics of the medium by which the network ultimately connects with the network termination point should not be taken into account for the purposes of establishing whether or not a wireless network could be considered as providing similar network performance. In accordance with the principle of technological neutrality, other technologies and transmission media should not be excluded, where they compare with this baseline scenario in terms of their capabilities. The roll-out of such 'very high capacity networks' will further increase the capabilities of networks and pave the way for the roll-out of future mobile network generations based on enhanced air interfaces and a more densified network architecture.

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Or. en

Justification

Benchmark should not only be buildings but also any premise concerned. Targets for the socio-economic drivers (offices, schools etc...) or the single homes are different and we should be as much inclusive as possible.

Amendment 168

Michel Reimon

on behalf of the Verts/ALE Group
Julia Reda

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14 a) Very significant price differences continue to prevail, both for fixed and mobile communications, between domestic voice and SMS communications and those terminating in another Member State. While there are substantial variations between countries, operators and tariff packages, and between mobile and fixed services, this continues to affect more vulnerable customer groups and to pose barriers to seamless communication within the EU. Any significant retail price differences between electronic communications services terminating in the same Member State and those terminating in another Member State should therefore be justified by reference to objective criteria.

Or. en

Justification

Introducing the proposal for the new 92a

Amendment 169
Kaja Kallas

Proposal for a directive
Recital 15

Text proposed by the Commission

Amendment

(15) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly substitute traditional voice telephony, text messages (SMS) and electronic mail conveyance services by functionally equivalent online services

(15) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly substitute traditional voice telephony, text messages (SMS) and electronic mail conveyance services by functionally equivalent online services

such as Voice over IP, messaging services and web-based e-mail services. In order to ensure that end-users are effectively and equally protected when using functionally equivalent services, a future-oriented definition of electronic communications services should not be purely based on technical parameters but rather build on a functional approach. **The** scope of necessary regulation should be appropriate to achieve its public interest objectives. While "conveyance of signals" remains an important parameter for determining the services falling into the scope of this Directive, the definition should cover also other services that enable communication. From an end-user's perspective it is not relevant whether a provider conveys signals itself or whether the communication is delivered via an internet access service. The amended definition of electronic communications services should therefore contain three types of services which may partly overlap, that is to say internet access services according to the definition in Article 2(2) of Regulation (EU) 2015/2120, interpersonal communications services as defined in this Directive, and services consisting wholly or mainly in the conveyance of signals. The definition of electronic communications service should eliminate ambiguities observed in the implementation of the previous definition and allow a calibrated provision-by-provision application of the specific rights and obligations contained in the framework to the different types of services. The processing of personal data by electronic communications services, whether as remuneration or otherwise, must be in compliance with Directive 95/46/EC which will be replaced by Regulation (EU) 2016/679 (General Data Protection Regulation) on 25 May 2018²³.

such as Voice over IP, messaging services and web-based e-mail services, ***although they still do not consider them as substitutes to traditional voice services, due to a perception of different levels of quality, security and interoperability***. In order to ensure that end-users are effectively and equally protected when using functionally equivalent services, a future-oriented definition of electronic communications services should not be purely based on technical parameters but rather build on a functional approach ***to the extent possible. The existing differences between services should however be acknowledged, online services such as Voice over IP being provided in most cases without having substantial control over the network used for enabling the communication but on the other hand allowing end-user to switch from service to service in an easier manner than from traditional communication services***; The scope of necessary regulation should be appropriate to achieve its public interest objectives. While "conveyance of signals" remains an important parameter for determining the services falling into the scope of this Directive, the definition should cover also other services that enable communication ***in a proportionate manner to deliver the best outcomes for end users***. From an end-user's perspective it is not relevant whether a provider conveys signals itself or whether the communication is delivered via an internet access service, ***therefore these services should not be defined on the basis of the technology used, but on the legitimate expectations end-users have for the service provided depending for instance on the price paid or the ease of terminating the contract***. The amended definition of electronic communications services should therefore contain three types of services which may partly overlap, that is to say internet access services according to the definition in Article 2(2) of Regulation (EU) 2015/2120, interpersonal communications services as defined in this Directive, and services

consisting wholly or mainly in the conveyance of signals. ***This last category should not include services where connectivity is provided as an input product into connected devices or 'smart goods' or where the provision of connectivity with such products is subject to a contract with the end-user, as they would be considered as embedded digital content or services according to the Directive concerning contracts for the supply of digital content***. The definition of electronic communications service should eliminate ambiguities observed in the implementation of the previous definition and allow a calibrated provision-by-provision application of the specific rights and obligations contained in the framework to the different types of services. The processing of personal data by electronic communications services, whether as remuneration or otherwise, must be in compliance with Directive 95/46/EC which will be replaced by Regulation (EU) 2016/679 (General Data Protection Regulation) on 25 May 2018²³.

²³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); OJ L 119, 4.5.2016, p. 1

²³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); OJ L 119, 4.5.2016, p. 1

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 170
Morten Helveg Petersen

Proposal for a directive
Recital 15

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(15) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly substitute traditional voice telephony, text messages (SMS) and electronic mail conveyance services by functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure that end-users are effectively and equally protected when using functionally equivalent services, a future-oriented definition of electronic communications services should not be purely based on technical parameters but rather build on a functional approach. The scope of necessary regulation should be appropriate to achieve its public interest objectives. While "conveyance of signals" remains an important parameter for determining the services falling into the scope of this Directive, the definition should cover also other services that enable communication. From *an end-user's* perspective it is not relevant whether a provider conveys signals itself or whether the communication is delivered via an internet access service. The amended definition of electronic communications services should therefore contain three types of services which may partly overlap, that is to say internet access services according to the definition in Article 2(2) of Regulation (EU) 2015/2120, interpersonal communications services as defined in this Directive, and services consisting wholly or mainly in the conveyance of signals. The definition of electronic communications service should eliminate ambiguities observed in the implementation of the previous definition and allow a calibrated provision-by-provision application of the specific rights and obligations contained in the framework to the different types of services. The processing of personal data by electronic communications services, whether as

(15) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly substitute traditional voice telephony, text messages (SMS) and electronic mail conveyance services by functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure that end-users ***and their rights*** are effectively and equally protected when using functionally equivalent services, a future-oriented definition of electronic communications services should not be purely based on technical parameters but rather build on a functional approach. The scope of necessary regulation should be appropriate to achieve its public interest objectives. While "conveyance of signals" remains an important parameter for determining the services falling into the scope of this Directive, the definition should cover also other services that enable communication. From ***the perspective of end-users and the protection of their rights*** it is not relevant whether a provider conveys signals itself or whether the communication is delivered via an internet access service. The amended definition of electronic communications services should therefore contain three types of services which may partly overlap, that is to say internet access services according to the definition in Article 2(2) of Regulation (EU) 2015/2120, interpersonal communications services as defined in this Directive, and services consisting wholly or mainly in the conveyance of signals. The definition of electronic communications service should eliminate ambiguities observed in the implementation of the previous definition and allow a calibrated provision-by-provision application of the specific rights and obligations contained in the framework to the different types of services. The processing of personal data by electronic

remuneration or otherwise, must be in compliance with Directive 95/46/EC which will be replaced by Regulation (EU) 2016/679 (General Data Protection Regulation) on 25 May 2018²³.

communications services, whether as remuneration or otherwise, must be in compliance with Directive 95/46/EC which will be replaced by Regulation (EU) 2016/679 (General Data Protection Regulation) on 25 May 2018²³.

23 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); OJ L 119, 4.5.2016, p. 1

²³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); OJ L 119, 4.5.2016, p. 1

Or. en

Amendment 171
Anne Sander, Françoise Grossetête

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly substitute traditional voice telephony, text messages (SMS) and electronic mail conveyance services by functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure that end-users are effectively and equally protected when using functionally

Amendment

(15) The services used for communications purposes, and the technical means of their delivery, have evolved considerably. End-users increasingly substitute traditional voice telephony, text messages (SMS) and electronic mail conveyance services by functionally equivalent online services such as Voice over IP, messaging services and web-based e-mail services. In order to ensure that end-users are effectively and equally protected when using functionally

equivalent services, a future-oriented definition of electronic communications services should not be purely based on technical parameters but rather build on a functional approach. The scope of necessary regulation should be appropriate to achieve its public interest objectives. While "conveyance of signals" ***remains an important parameter for determining the services falling*** into the scope of this Directive, the definition should cover also other services that enable communication. From an end-user's perspective it is not relevant whether a provider conveys signals itself or whether the communication is delivered via an internet access service. The amended definition of electronic communications services should therefore contain three types of services which may partly overlap, that is to say internet access services according to the definition in Article 2(2) of Regulation (EU) 2015/2120, interpersonal communications services as defined in this Directive, and services consisting wholly or mainly in the conveyance of signals. The definition of electronic communications service should eliminate ambiguities observed in the implementation of the previous definition and allow a calibrated provision-by-provision application of the specific rights and obligations contained in the framework to the different types of services. The processing of personal data by electronic communications services, whether as remuneration or otherwise, must be in compliance with Directive 95/46/EC which will be replaced by Regulation (EU) 2016/679 (General Data Protection Regulation) on 25 May 2018²³.

equivalent services, a future-oriented definition of electronic communications services should not be purely based on technical parameters but rather build on a functional approach. The scope of necessary regulation should be appropriate to achieve its public interest objectives. While "conveyance of signals" ***allows to include transmission*** services into the scope of this Directive, the definition should cover also other services that enable communication. From an end-user's perspective it is not relevant whether a provider conveys signals itself or whether the communication is delivered via an internet access service. The amended definition of electronic communications services should therefore contain three types of services which may partly overlap, that is to say internet access services according to the definition in Article 2(2) of Regulation (EU) 2015/2120, interpersonal communications services as defined in this Directive, and services consisting wholly or mainly in the conveyance of signals, ***the third category excluding services which qualify as interpersonal communication services as defined in paragraph (5) of Article 2 of the present Code, information society services, as defined in Article 1 of Directive 98/34/EC and as services providing, or exercising editorial control over, content transmitted using electronic communications networks and services.*** The definition of electronic communications service should eliminate ambiguities observed in the implementation of the previous definition and allow a calibrated provision-by-provision application of the specific rights and obligations contained in the framework to the different types of services. The processing of personal data by electronic communications services, whether as remuneration or otherwise, must be in compliance with Directive 95/46/EC which will be replaced by Regulation (EU) 2016/679 (General Data Protection Regulation) on 25 May 2018²³.

²³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); OJ L 119, 4.5.2016, p. 1

²³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); OJ L 119, 4.5.2016, p. 1

Or. en

Amendment 172

Kaja Kallas

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) In order to fall within the scope of the definition of electronic communications service, a service needs to be provided normally in exchange for remuneration. In the digital economy, market participants increasingly consider information about users as having a monetary value. Electronic communications services are *often* supplied against *counter-performance other than money, for instance by giving access to personal data or other data*. The concept of remuneration should therefore encompass situations where the provider of a service requests and the end-user *actively* provides personal data, *such as name or email address, or other data* directly or indirectly *to the provider*. *It should also encompass situations where the provider collects information without the end-user actively supplying it, such as personal data, including the IP address, or other automatically generated information, such as information collected and transmitted by a cookie*). In line with the jurisprudence of the Court of Justice of the European Union on Article 57 TFEU²⁴, remuneration exists within the meaning of

Amendment

(16) In order to fall within the scope of the definition of electronic communications service, a service needs to be provided normally in exchange for remuneration. In the digital economy, market participants increasingly consider information about users as having a monetary value. Electronic communications services are *in some cases* supplied against *personal data where such data is used beyond what is essential for the performance of the contract*. The concept of remuneration should therefore encompass situations where the provider of a service requests and the end-user provides personal data, directly or indirectly, *that is used for a purpose which is not necessary for the performance of the contract*. In line with the jurisprudence of the Court of Justice of the European Union on Article 57 TFEU²⁴, remuneration exists within the meaning of the Treaty also if the service provider is paid by a third party and not by the service recipient. The concept of remuneration should therefore also encompass situations where the end-user is exposed to advertisements as a condition for gaining

the Treaty also if the service provider is paid by a third party and not by the service recipient. The concept of remuneration should therefore also encompass situations where the end-user is exposed to advertisements as a condition for gaining access to the service, or situations where the service provider monetises personal data it has collected.

access to the service, or situations where the service provider monetises personal data it has collected.

²⁴ Case C-352/85 Bond van Adverteerders and Others vs The Netherlands State, EU:C:1988:196.

²⁴ Case C-352/85 Bond van Adverteerders and Others vs The Netherlands State, EU:C:1988:196.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 173

Barbara Kappel, Angelo Ciocca, Lorenzo Fontana

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Interpersonal communications services are services that enable interpersonal and interactive exchange of information, ***covering services like traditional voice calls between two individuals but also all types of emails, messaging services, or group chats.*** Interpersonal communications services only cover communications between a finite, that is to say not potentially unlimited, number of natural persons which is determined by the sender of the communication. Communications involving legal persons should be within the scope of the definition where natural persons act on behalf of those legal persons or are involved at least on one side of the communication. Interactive communication entails that the service allows the recipient

Amendment

(17) Interpersonal communications services are services that enable interpersonal and interactive exchange of information. Interpersonal communications services only cover communications between a finite, that is to say not potentially unlimited, number of natural persons which is determined by the sender of the communication. Communications involving legal persons should be within the scope of the definition where natural persons act on behalf of those legal persons or are involved at least on one side of the communication. Interactive communication entails that the service allows the recipient of the information to respond. Services which do not meet those requirements, such as linear broadcasting, video on demand, websites, social networks, blogs,

of the information to respond. Services which do not meet those requirements, such as linear broadcasting, video on demand, websites, social networks, blogs, or exchange of information between machines, should not be considered as interpersonal communications services. Under exceptional circumstances, a service should not be considered as an interpersonal communications service if the interpersonal and interactive communication facility is a purely ancillary feature to another service and for objective technical reasons cannot be used without that principal service, and its integration is not a means to circumvent the applicability of the rules governing electronic communications services. An example for such an exception could be, in principle, a communication channel in online games, depending on the features of the communication facility of the service.

or exchange of information between machines, should not be considered as interpersonal communications services. Under exceptional circumstances, a service should not be considered as an interpersonal communications service if the interpersonal and interactive communication facility is a purely ancillary feature to another service and for objective technical reasons cannot be used without that principal service, and its integration is not a means to circumvent the applicability of the rules governing electronic communications services.

An example for such an exception could be, in principle, a communication channel in online games *or document sharing applications*, depending on the features of the communication facility of the service. *Similarly, to the extent a multi-feature service contains a communications feature or element that (on its particular facts) can properly be considered to be an interpersonal communications service [that can be used on a standalone basis], only that separable feature or element should be considered as an interpersonal communications service.*

Or. en

Amendment 174 Kaja Kallas

Proposal for a directive Recital 17

Text proposed by the Commission

(17) Interpersonal communications services are services *that enable* interpersonal and interactive exchange of information, covering services like traditional voice calls between two individuals but also *all types of emails*, messaging services, or group chats. Interpersonal communications services only cover communications between a finite, that is to say not potentially

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Amendment

(17) Interpersonal communications services are services *where the principal purpose of the service consists in enabling* interpersonal and interactive exchange of information, covering services like traditional voice calls between two individuals but also messaging services, or group chats. Interpersonal communications services only cover communications between a finite, that is to say not

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unlimited, number of natural persons which is determined by the sender of the communication. Communications involving legal persons should be within the scope of the definition where natural persons act on behalf of those legal persons or are involved at least on one side of the communication. Interactive communication entails that the service allows the recipient of the information to respond. Services which do not meet those requirements, such as linear broadcasting, video on demand, websites, social networks, blogs, or exchange of information between machines, should not be considered as interpersonal communications services. ***Under exceptional circumstances***, a service should not be considered as an interpersonal communications service if the interpersonal and interactive communication facility is ***a purely ancillary feature to another*** service and for objective technical reasons cannot be used without that principal service, and its integration is not a means to circumvent the applicability of the rules governing electronic communications services. An example for such an exception could be, in principle, a communication channel in online games, depending on the features of the communication facility of the service.

potentially unlimited, number of natural persons which is determined by the sender of the communication. Communications involving legal persons should be within the scope of the definition where natural persons act on behalf of those legal persons or are involved at least on one side of the communication. Interactive communication entails that the service allows the recipient of the information to respond. Services which do not meet those requirements, such as linear broadcasting, video on demand, websites, social networks, blogs, or exchange of information between machines, should not be considered as interpersonal communications services. A service should not be considered as an interpersonal communications service if the interpersonal and interactive communication facility is ***not the main purpose of the*** service and for objective technical reasons cannot be used without that principal service, and its integration is not a means to circumvent the applicability of the rules governing electronic communications services, ***as the application of the provisions in this Directive would not be proportionate to the level of connectivity provided with this service***. An example for such an exception could be, in principle, a communication channel in online games, depending on the features of the communication facility of the service.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 175

Michel Reimon

on behalf of the Verts/ALE Group

Marisa Matias, Julia Reda, Cornelia Ernst

Proposal for a directive

Recital 17

(17) Interpersonal communications services are services that enable interpersonal and interactive exchange of information, covering services like traditional voice calls between two individuals but also all types of emails, messaging services, or group chats. Interpersonal communications services only cover communications between a finite, that is to say not potentially unlimited, number of natural persons which is determined by the sender of the communication. Communications involving legal persons should be within the scope of the definition where natural persons act on behalf of those legal persons or are involved at least on one side of the communication. Interactive communication entails that the service allows the recipient of the information to respond. Services which do not meet those requirements, such as linear broadcasting, video on demand, websites, social networks, blogs, or exchange of information between machines, should not be considered as interpersonal communications services. Under exceptional circumstances, a service should not be considered as an interpersonal communications service if the interpersonal and interactive communication facility is a purely ancillary feature to another service and for objective technical reasons cannot be used without that principal service, and its integration is not a means to circumvent the applicability of the rules governing electronic communications services. An example for such an exception could be, in principle, a communication channel in online games, depending on the features of the communication facility of the service.

(17) Interpersonal communications services are services ***provided for remuneration*** that enable interpersonal and interactive exchange of information, covering services like traditional voice calls between two individuals but also all types of emails, messaging services, or group chats. Interpersonal communications services only cover communications between a finite, that is to say not potentially unlimited, number of natural persons which is determined by the sender of the communication. Communications involving legal persons should be within the scope of the definition where natural persons act on behalf of those legal persons or are involved at least on one side of the communication. Interactive communication entails that the service allows the recipient of the information to respond. Services which do not meet those requirements, such as linear broadcasting, video on demand, websites, social networks, blogs, or exchange of information between machines, should not be considered as interpersonal communications services. Under exceptional circumstances, a service should not be considered as an interpersonal communications service if the interpersonal and interactive communication facility is a purely ancillary feature to another service and for objective technical reasons cannot be used without that principal service, and its integration is not a means to circumvent the applicability of the rules governing electronic communications services. An example for such an exception could be, in principle, a communication channel in online games, depending on the features of the communication facility of the service.

Or. en

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Interpersonal communications services are services that enable interpersonal and interactive exchange of information, covering services like traditional voice calls between two individuals but also all types of emails, messaging services, or group chats. Interpersonal communications services only cover communications between a finite, that is to say not potentially unlimited, number of natural persons which is determined by the sender of the communication. Communications involving legal persons should be within the scope of the definition where natural persons act on behalf of those legal persons or are involved at least on one side of the communication. Interactive communication entails that the service allows the recipient of the information to respond. Services which do not meet those requirements, such as linear broadcasting, video on demand, websites, social networks, blogs, or exchange of information between machines, should not be considered as interpersonal communications services. Under exceptional circumstances, a service should not be considered as an interpersonal communications service if the interpersonal and interactive communication facility is a ***purely ancillary*** feature to another service and for objective technical reasons cannot be used without that principal service, and its integration is not a means to circumvent the applicability of the rules governing electronic communications services. An example for such an exception could be, in principle, a communication channel in online games, depending on the features of the communication facility of the service.

Amendment

(17) Interpersonal communications services are services that enable interpersonal and interactive exchange of information, covering services like traditional voice calls between two individuals but also all types of emails, messaging services, or group chats. Interpersonal communications services only cover communications between a finite, that is to say not potentially unlimited, number of natural persons which is determined by the sender of the communication. Communications involving legal persons should be within the scope of the definition where natural persons act on behalf of those legal persons or are involved at least on one side of the communication. Interactive communication entails that the service allows the recipient of the information to respond. Services which do not meet those requirements, such as linear broadcasting, video on demand, websites, social networks, blogs, or exchange of information between machines, should not be considered as interpersonal communications services. Under exceptional circumstances, a service should not be considered as an interpersonal communications service if the interpersonal and interactive communication facility is a feature to another service and for objective technical reasons cannot be used without that principal service, and its integration is not a means to circumvent the applicability of the rules governing electronic communications services. An example for such an exception could be, in principle, a communication channel in online games, depending on the features of the communication facility of the service.

Or. en

Justification

This deletion serves to clarify what type of services should fall within the scope of this Directive, so as to limit the risk of inconsistency in its application.

Amendment 177

Kaja Kallas

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) Interpersonal communications services using numbers from a national and international telephone numbering plan connect with the public (packet or circuit) switched telephone network. Those number-based interpersonal communications services comprise both services to which end-users numbers are assigned for the purpose of ensuring end-to-end connectivity and services enabling end-users to reach persons to whom such numbers have been assigned. The mere use of a number as an identifier should not be considered equivalent to the use of a number to connect with the public switched telephone network, and should therefore, in itself, not be considered sufficient to qualify a service as a number-based interpersonal communications service. Number-independent interpersonal communications services should be subject only to obligations, where public interests require applying specific regulatory obligations to all types of interpersonal communications services, regardless of whether they use numbers for the provision of their service. It is justified to treat number-based interpersonal communications services differently, as they participate in and hence also benefit from a publicly assured interoperable ecosystem.

Amendment

(18) Interpersonal communications services using numbers from a national and international telephone numbering plan connect with the public (packet or circuit) switched telephone network. Those number-based interpersonal communications services comprise both services to which end-users numbers are assigned for the purpose of ensuring end-to-end connectivity and services enabling end-users to reach persons to whom such numbers have been assigned. The mere use of a number as an identifier should not be considered equivalent to the use of a number to connect with the public switched telephone network, and should therefore, in itself, not be considered sufficient to qualify a service as a number-based interpersonal communications service. ***In addition where the service provided does not rely on its own infrastructure and therefore does not have substantial control over the network used for enabling the communication, the use of the number should also be considered in a different manner as the obligations would not be proportionate to their ability to deliver a certain quality of service***; Number-independent interpersonal communications services should be subject only to obligations, where public interests require applying specific regulatory obligations to all types of interpersonal communications services, regardless of whether they use numbers for the provision of their service. It is justified to treat

number-based interpersonal communications services differently, as they participate in and hence also benefit from a publicly assured interoperable ecosystem.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 178

Angelika Niebler, Herbert Reul, Markus Pieper

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) Um die politischen Ziele der Strategie für einen digitalen Binnenmarkt im rechtlichen Sinne umzusetzen, sollte mit dem Rechtsrahmen neben den drei vorrangigen Zielen der Förderung des Wettbewerbs, des Binnenmarkts und der Interessen der Endnutzer zusätzlich ein auf folgende Ergebnisse ausgerichtetes Konnektivitätsziel verfolgt werden: breiter Zugang zu und weit verbreitete Nutzung von Festnetz- und Mobilanbindungen mit sehr hoher Kapazität für/durch alle Bürger und Unternehmen der Union auf Grundlage von angemessenen Preisen und Auswahl, ermöglicht durch wirksamen und fairen Wettbewerb, effiziente Investitionen und offene Innovation, effiziente Frequenznutzung, gemeinsame Regeln und vorhersehbare Regulierungskonzepte im Binnenmarkt sowie durch die erforderlichen sektorspezifischen Vorschriften zum Schutz der Interessen der Bürger. Für die Mitgliedstaaten, die nationalen Regulierungsbehörden und anderen zuständigen Behörden sowie die Interessenträger bedeutet das Konnektivitätsziel zum einen, dass Netze und Dienste mit der höchstmöglichen,

Amendment

(23) Um die politischen Ziele der Strategie für einen digitalen Binnenmarkt im rechtlichen Sinne umzusetzen, sollte mit dem Rechtsrahmen neben den drei vorrangigen Zielen der Förderung des Wettbewerbs, des Binnenmarkts und der Interessen der Endnutzer zusätzlich ein auf folgende Ergebnisse ausgerichtetes Konnektivitätsziel verfolgt werden: breiter Zugang zu und weit verbreitete Nutzung von Festnetz- und Mobilanbindungen mit sehr hoher Kapazität für/durch alle Bürger und Unternehmen der Union auf Grundlage von angemessenen Preisen und Auswahl, ermöglicht durch wirksamen und fairen Wettbewerb, effiziente Investitionen und offene Innovation, effiziente Frequenznutzung, gemeinsame Regeln und vorhersehbare Regulierungskonzepte im Binnenmarkt sowie durch die erforderlichen sektorspezifischen Vorschriften zum Schutz der Interessen der Bürger. ***Alle in diesem Absatz formulierten politischen Ziele sollten als gleichrangig betrachtet werden.*** Für die Mitgliedstaaten, die nationalen Regulierungsbehörden und anderen zuständigen Behörden sowie die

wirtschaftlich nachhaltigen Kapazität in einem bestimmten Bereich angestrebt werden, und zum anderen ein territorialer Zusammenhalt im Sinne einer Verschmelzung der in verschiedenen Bereichen verfügbaren Kapazität verfolgt wird.

Interessenträger bedeutet das Konnektivitätsziel zum einen, dass Netze und Dienste mit der höchstmöglichen, wirtschaftlich nachhaltigen Kapazität in einem bestimmten Bereich angestrebt werden, und zum anderen ein territorialer Zusammenhalt im Sinne einer Verschmelzung der in verschiedenen Bereichen verfügbaren Kapazität verfolgt wird. ***Fairer Wettbewerb ist die wichtigste Voraussetzung für Investitionen. Ziel ist es, hochleistungsfähige Infrastrukturen flächendeckend in der Europäischen Union sicherzustellen.***

Or. de

Justification

Alle in diesem Erwägungsgrund formulierten Ziele sind gleichrangig. Nur mittels fairem Wettbewerb werden Investitionen gesteigert und Infrastrukturen ausgebaut. Ziel ist es, hochleistungsfähige Infrastrukturen flächendeckend in der Europäischen Union sicherzustellen.

Amendment 179

Anne Sander, Françoise Grossetête

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) In order to translate the political aims of the Digital Single Market strategy into regulatory terms, the framework should, in addition to the existing three primary objectives of promoting competition, internal market ***and end-user*** interests, pursue an additional connectivity objective, articulated in terms of outcomes: widespread access to and take-up of very high capacity fixed and mobile connectivity for all Union citizens and businesses on the basis of reasonable price and choice, enabled by effective and fair competition, by efficient investment and open innovation, by efficient use of spectrum, by common rules and predictable regulatory approaches in the

Amendment

(23) In order to translate the political aims of the Digital Single Market strategy into regulatory terms, the framework should, in addition to the existing three primary objectives of promoting competition, internal market, ***end-user and citizens*** interests, pursue an additional connectivity objective, articulated in terms of outcomes: widespread access to and take-up of very high capacity fixed and mobile connectivity for all Union citizens and businesses on the basis of reasonable price and choice, enabled by effective, ***sustainable*** and fair competition, by efficient investment and open innovation, by efficient use of spectrum, by common rules and predictable regulatory approaches

internal market and by the necessary sector-specific rules to safeguard the interests of citizens. For the Member States, the national regulatory authorities and other competent authorities and the stakeholders, that connectivity objective translates on the one hand into aiming for the highest capacity networks and services economically sustainable in a given area, and on the other hand into pursuing territorial cohesion, in the sense of convergence in capacity available in different areas.

in the internal market and by the necessary sector-specific rules to safeguard the **long term** interests of citizens. For the Member States, the national regulatory authorities and other competent authorities and the stakeholders, that connectivity objective translates on the one hand into aiming for the highest capacity networks and services economically sustainable in a given area, and on the other hand into pursuing territorial cohesion, in the sense of convergence in capacity available in different areas, **while ensuring economic development in Europe supported by the competitiveness of European industry.**

Or. en

Amendment 180
Nadine Morano

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) Afin de traduire les objectifs politiques de la stratégie pour un marché unique numérique en termes de régulation, le cadre devrait, en plus du triple objectif fondamental de promotion de la concurrence, du marché intérieur et des intérêts des utilisateurs finaux, poursuivre un objectif supplémentaire de connectivité, axé sur les résultats: la généralisation de l'accès et de l'adoption de la connectivité fixe et mobile à très haute capacité par tous les citoyens et entreprises de l'Union, sur la base de prix raisonnables et du choix, rendus possibles par une concurrence équitable et effective, par des investissements efficaces et l'innovation ouverte, par une utilisation efficace du spectre, par des règles communes et des approches prévisibles en matière de régulation dans le marché intérieur et par les règles sectorielles nécessaires pour préserver les intérêts des citoyens. Pour les États membres, les autorités de régulation

Amendment

(23) Afin de traduire les objectifs politiques de la stratégie pour un marché unique numérique en termes de régulation, le cadre devrait, en plus du triple objectif fondamental de promotion de la concurrence, du marché intérieur et des intérêts des utilisateurs finaux, poursuivre un objectif supplémentaire de connectivité, axé sur les résultats: la généralisation de l'accès et de l'adoption de la connectivité fixe et mobile à très haute capacité par tous les citoyens et entreprises de l'Union, **en accordant une attention particulière aux petites et moyennes entreprises**, sur la base de prix raisonnables et du choix, rendus possibles par une concurrence équitable et effective, par des investissements efficaces et l'innovation ouverte, par une utilisation efficace du spectre, par des règles communes et des approches prévisibles en matière de régulation dans le marché intérieur et par les règles sectorielles nécessaires pour

nationales et les autres autorités compétentes et les parties prenantes, cet objectif de connectivité se traduit d'une part par des efforts pour déployer des réseaux et services de la plus haute capacité qui soient viables économiquement dans une zone donnée, et d'autre part par la recherche de la cohésion territoriale, au sens d'une convergence des capacités disponibles dans des zones différentes.

préservant les intérêts des citoyens. Pour les États membres, les autorités de régulation nationales et les autres autorités compétentes et les parties prenantes, cet objectif de connectivité se traduit d'une part par des efforts pour déployer des réseaux et services de la plus haute capacité qui soient viables économiquement dans une zone donnée, et d'autre part par la recherche de la cohésion territoriale, au sens d'une convergence des capacités disponibles dans des zones différentes.

Or. fr

Amendment 181
Kathleen Van Brempt

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) In order to translate the political aims of the Digital Single Market strategy into regulatory terms, the framework should, in addition to the existing three primary objectives of promoting competition, internal market and end-user interests, pursue an additional connectivity objective, articulated in terms of outcomes: widespread access to and take-up of very high capacity fixed and mobile connectivity for all Union citizens and businesses on the basis of reasonable price and choice, enabled by effective and fair competition, by efficient investment and open innovation, by efficient use of spectrum, by common rules and predictable regulatory approaches in the internal market and by the necessary sector-specific rules to safeguard the interests of citizens. For the Member States, the national regulatory authorities and other competent authorities and the stakeholders, that connectivity objective translates on the one hand into aiming for the highest capacity networks and services

PE602.947v01-00

Amendment

(23) In order to translate the political aims of the Digital Single Market strategy into regulatory terms, the framework should, in addition to the existing three primary objectives of promoting competition, internal market and end-user interests, pursue an additional connectivity objective, articulated in terms of outcomes: widespread access to, **investment in** and take-up of very high capacity fixed and mobile connectivity for all Union citizens and businesses on the basis of reasonable price and choice, enabled by effective and fair competition, by efficient investment and open innovation, by efficient use of spectrum, by common rules and predictable regulatory approaches in the internal market and by the necessary sector-specific rules to safeguard the interests of citizens. For the Member States, the national regulatory authorities and other competent authorities and the stakeholders, that connectivity objective translates on the one hand into aiming for the highest capacity networks and services

economically sustainable in a given area, and on the other hand into pursuing territorial cohesion, in the sense of convergence in capacity available in different areas.

economically sustainable in a given area, and on the other hand into pursuing territorial cohesion, in the sense of convergence in capacity available in different areas.

Or. en

Amendment 182
Aldo Patriciello

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) Al fine di tradurre gli obiettivi politici della strategia per il mercato unico digitale in interventi normativi, il quadro - in aggiunta ai tre obiettivi principali già fissati che consistono nella promozione della concorrenza, del mercato interno e degli interessi degli utenti finali - **dovrebbe** perseguire un ulteriore obiettivo in materia di connettività, articolandolo in termini di risultati: l'accesso generalizzato alla connettività fissa e mobile ad altissima capacità e l'ampia diffusione della stessa per tutti i cittadini e le imprese dell'UE a prezzi ragionevoli e con possibilità di scelta adeguata, grazie a una concorrenza effettiva ed equa, ad investimenti efficienti e innovazione aperta, all'uso efficiente dello spettro, a norme comuni e alla prevedibilità degli approcci normativi nel mercato interno e alle necessarie norme settoriali per tutelare gli interessi dei cittadini. Per gli Stati membri, le autorità nazionali di regolamentazione, le altre autorità competenti e le parti interessate, tale obiettivo in materia di connettività si traduce da un lato nel proposito di disporre di reti e servizi della massima capacità che siano economicamente sostenibili in una determinata area e dall'altro nel perseguimento della coesione territoriale, intesa come convergenza della capacità disponibile in aree differenti.

Amendment

(23) Al fine di tradurre gli obiettivi politici della strategia per il mercato unico digitale in interventi normativi, il quadro - in aggiunta ai tre obiettivi principali già fissati che consistono nella promozione della concorrenza, del mercato interno e degli interessi degli utenti finali - **deve** perseguire, **di pari passo**, un ulteriore obiettivo in materia di connettività, articolandolo in termini di risultati: l'accesso generalizzato alla connettività fissa e mobile ad altissima capacità e l'ampia diffusione della stessa per tutti i cittadini e le imprese dell'UE a prezzi ragionevoli e con possibilità di scelta adeguata, grazie a una concorrenza effettiva ed equa, ad investimenti efficienti e innovazione aperta, all'uso efficiente dello spettro, a norme comuni e alla prevedibilità degli approcci normativi nel mercato interno e alle necessarie norme settoriali per tutelare gli interessi dei cittadini. Per gli Stati membri, le autorità nazionali di regolamentazione, le altre autorità competenti e le parti interessate, tale obiettivo in materia di connettività si traduce da un lato nel proposito di disporre di reti e servizi della massima capacità che siano economicamente sostenibili in una determinata area e dall'altro nel perseguimento della coesione territoriale,

intesa come convergenza della capacità disponibile in aree differenti.

Or. it

Amendment 183

Barbara Kappel, Lorenzo Fontana, Angelo Ciocca

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) The principle that Member States should apply EU law in a technologically neutral fashion, that is to say that a national regulatory or other competent authority neither imposes nor discriminates in favour of the use of a particular type of technology, does not preclude the taking of proportionate steps to promote certain specific services where this is justified in order to attain the objectives of the regulatory framework, for example digital television as a means for increasing spectrum efficiency. Furthermore, it does not preclude taking into account that certain transmission media have physical characteristics and architectural features that can be superior in terms of quality of service, capacity, maintenance cost, energy efficiency, management flexibility, reliability, robustness and scalability, and ultimately in terms of performance, which can be reflected in actions taken in view of pursuing the various regulatory objectives.

Amendment

(24) The principle that Member States should apply EU law in a technologically neutral fashion, that is to say that a national regulatory or other competent authority neither imposes nor discriminates in favour of the use of a particular type of technology, does not preclude the taking of proportionate steps to promote certain specific services where this is justified in order to attain the objectives of the regulatory framework, for example digital television as a means for increasing spectrum efficiency, ***or generally the migration to enhanced services as a means for increasing consumers' satisfaction***. Furthermore, it does not preclude taking into account that certain transmission media have physical characteristics and architectural features that can be superior in terms of quality of service, capacity, maintenance cost, energy efficiency, management flexibility, reliability, robustness and scalability, and ultimately in terms of performance, which can be reflected in actions taken in view of pursuing the various regulatory objectives.

Or. en

Amendment 184

Kaja Kallas

Proposal for a directive

Recital 27

PE602.947v01-00

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Text proposed by the Commission

(27) It is necessary to give appropriate incentives for investment in new very high capacity networks that will support innovation in content-rich Internet services and strengthen the international competitiveness of the European Union. Such networks have enormous potential to deliver benefits to consumers and businesses across the European Union. It is therefore vital to promote sustainable investment in the development of these new networks, while safeguarding competition and boosting consumer choice through regulatory predictability and consistency.

Amendment

(27) It is necessary to give appropriate incentives for investment in new very high capacity networks that will support innovation in content-rich Internet services and strengthen the international competitiveness of the European Union. Such networks have enormous potential to deliver benefits to consumers and businesses across the European Union. It is therefore vital to promote sustainable investment in the development of these new networks, while safeguarding ***long-term*** competition, ***as remaining bottlenecks and physical barriers to entry remain at the infrastructure level***, and boosting consumer choice through regulatory predictability and consistency.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 185

Kaja Kallas, Marietje Schaake

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) The aim is progressively to reduce ex ante sector-specific rules as competition in the markets develops and, ultimately, for electronic communications to be governed by competition law only. Considering that the markets for electronic communications have shown strong competitive dynamics in recent years, it is essential that ex ante regulatory obligations only be imposed where there is no effective and sustainable competition on the retail markets ***concerned***.

Amendment

(28) The aim is progressively to reduce ex ante sector-specific rules as competition in the markets develops and, ultimately, for electronic communications to be governed by competition law only. Considering that the markets for electronic communications have shown strong competitive dynamics in recent years, it is essential that ex ante regulatory obligations only be imposed where there is no effective and sustainable ***long-term*** competition on the ***relevant markets concerned***. ***However, the markets for electronic communications in Europe***

being still largely composed of vertically integrated operators which can leverage their dominance in the wholesale market to thereafter increase their dominance in the retail markets, long term competition at the retail level should be ensured by the removal of existing barriers to entry at the infrastructure level.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 186

Kaja Kallas, Marietje Schaake

Proposal for a directive

Recital 33

Text proposed by the Commission

(33) In accordance with the principle of the separation of regulatory and operational functions, Member States should guarantee the independence of the national regulatory authority and other competent authorities with a view to ensuring the impartiality of their decisions. This requirement of independence is without prejudice to the institutional autonomy and constitutional obligations of the Member States or to the principle of neutrality with regard to the rules in Member States governing the system of property ownership laid down in Article 295 of the Treaty. National regulatory and other competent authorities should be in possession of all the necessary resources, in terms of staffing, expertise, and financial means, for the performance of their tasks.

Amendment

(33) In accordance with the principle of the separation of regulatory and operational functions, Member States should guarantee the independence of the national regulatory authority and other competent authorities, ***including from respective governments***, with a view to ensuring the impartiality of their decisions. This requirement of independence is without prejudice to the institutional autonomy and constitutional obligations of the Member States or to the principle of neutrality with regard to the rules in Member States governing the system of property ownership laid down in Article 295 of the Treaty. National regulatory and other competent authorities should be in possession of all the necessary resources, in terms of staffing, expertise, and financial means, for the performance of their tasks.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 187

Morten Helveg Petersen

Proposal for a directive

Recital 36

Text proposed by the Commission

(36) There is a need to further reinforce the independence of the national regulatory authorities to ensure the imperviousness of its head and members to external pressure, by providing minimum appointment qualifications, and a minimum duration for their mandate. Furthermore, the limitation of the possibility to renew more than once their mandate and the requirement for an appropriate rotation scheme for the board and the top management would address the risk of regulatory capture, ensure continuity, and enhance independence.

Amendment

(36) There is a need to further reinforce the independence of the national regulatory authorities to ensure the imperviousness of its head and members to external pressure, by providing minimum appointment qualifications, and a minimum duration for their mandate. Furthermore, the limitation of the possibility to renew more than once their mandate and the requirement for an appropriate rotation scheme for the board and the top management would address the risk of regulatory capture, ensure continuity, and enhance independence. ***To this end, Member States should also ensure that national regulatory authorities are legally distinct and functionally independent from the industry and government in that they neither seek nor take instructions from any body, they operate in a transparent and accountable manner in accordance with Union law and national law and they have sufficient powers.***

Or. en

Amendment 188

Kaja Kallas

Proposal for a directive

Recital 40

Text proposed by the Commission

Amendment

(40) The benefits of the single market to service providers and end-users can be best achieved by general authorisation of electronic communications networks and of electronic communications services other than number-independent interpersonal communications services, without requiring any explicit decision or administrative act by the national regulatory authority and by limiting any procedural requirements to a declaratory notification only. Where Member States require notification by providers of electronic communications networks or services when they start their activities, **this** notification should be submitted to BEREC which acts as a single contact point. Such notification should not entail administrative cost for the providers and **could** be made available via an entry point **at** the website of **the national regulatory authorities**. BEREC should forward in good time the notifications to the national regulatory authority in all Member States in which the providers of electronic communications networks or services intend to provide electronic communications networks or services. Member States can also require proof that notification was made by means of any legally recognised postal or electronic acknowledgement of receipt of the notification to BEREC. Such acknowledgement should in any case not consist of or require an administrative act by the national regulatory authority, or any other authority.

(40) The benefits of the single market to service providers and end-users can be best achieved by general authorisation of electronic communications networks and of electronic communications services other than number-independent interpersonal communications services, without requiring any explicit decision or administrative act by the national regulatory authority and by limiting any procedural requirements to a declaratory notification only. Where Member States require notification by providers of electronic communications networks or services when they start their activities, **one single** notification should be submitted to BEREC which acts as a single contact point. Such notification should not entail administrative cost for the providers and **should** be made available via an entry point **on** the website of **BEREC**. BEREC should forward in good time the notifications to the national regulatory authority in all Member States in which the providers of electronic communications networks or services intend to provide electronic communications networks or services. Member States can also require proof that notification was made by means of any legally recognised postal or electronic acknowledgement of receipt of the notification to BEREC. Such acknowledgement should in any case not consist of or require an administrative act by the national regulatory authority, or any other authority.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 189

Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive
Recital 41

Text proposed by the Commission

(41) The notification to BEREC should entail a mere declaration of the provider's intention to commence the provision of electronic communications networks and services. A provider may only be required to accompany such declaration by the information set out in Article 12 of this Directive. Member States should not impose additional or separate notification **requirements**.

Amendment

(41) The notification to BEREC should entail a mere declaration of the provider's intention to commence the provision of electronic communications networks and services. A provider may only be required to accompany such declaration by the information set out in Article 12 of this Directive. ***It should be designed to facilitate a consistent implementation of this Directive as well as to provide the most relevant market knowledge to BEREC and national regulatory authorities.*** Member States should not impose additional or separate notification **requirement**

Or. en

Justification

The notification to Berec should facilitate internal market and help to facilitate consistent implementation of this directive.

Amendment 190
Kaja Kallas

Proposal for a directive
Recital 42

Text proposed by the Commission

(42) Contrary to the other categories of electronic communications networks and services as defined in this Directive, number-independent interpersonal communications services do not benefit from the use of public numbering resources and do not participate in a publicly assured interoperable ecosystem. It is therefore not appropriate to subject these types of services to the general authorisation regime

Amendment

(42) Contrary to the other categories of electronic communications networks and services as defined in this Directive, number-independent interpersonal communications services do not benefit from the use of public numbering resources and do not participate in a publicly assured interoperable ecosystem. It is therefore not appropriate to subject these types of services to the general authorisation regime ***Therefore, Member States should not subject such services to prior***

authorisation or any other equivalent requirement.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 191
Kaja Kallas

Proposal for a directive
Recital 47 a (new)

Text proposed by the Commission

Amendment

(47 a) Providers of electronic communication services that operate in more than one member state are still subject to different rules, requirements and reporting obligations despite having the freedom to provide electronic communications networks and services anywhere in Europe, which hinders the development and growth of the internal market for electronic communications. This should therefore be possible for such providers to be granted on single general authorisation by the member state indicated in their notification as the provider's main establishment in the EU. The single general authorisation should include the specific conditions that apply in the different member states of operation to ensure compliance of the service provider with all relevant laws. BEREC should facilitate the coordination and exchange of information to ensure compliance of the service provider with Union and national law. Providers of electronic communication services would still need to obtain specific authorisations for the rights of use for numbers, radio spectrum and for rights to install facilities.

Or. en

Justification

In order to facilitate the provision of crossborder services and the free flow of data, there is a necessity to reduce the administrative burden undertakings have to face as they are currently confronted with different requests in different formats from 28 different administrations, although they provide services that technologically do not rely on borders . In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 192

Barbara Kappel, Angelo Ciocca, Lorenzo Fontana

Proposal for a directive

Recital 53

Text proposed by the Commission

(53) Member States may need to amend rights, conditions, procedures, charges and fees relating to general authorisations and rights of use where this is objectively justified. Such changes should be duly notified to all interested parties in good time, giving them adequate opportunity to express their views on any such amendments. Taking into account the need to ensure legal certainty and to promote regulatory predictability, any restriction or withdrawal of existing rights of use for radio spectrum or to install facilities should be subject to predictable and transparent procedures; hence stricter requirements or a notification mechanism could be imposed where rights of use have been assigned pursuant to competitive or comparative procedures. Unnecessary procedures should be avoided in case of minor amendments to existing rights to install facilities or to use spectrum when such amendments do not impact on third parties' interests. The change in the use of spectrum as a result of the application of technology and service neutrality principles should not be considered a sufficient justification for a withdrawal of rights since it does not constitute the granting of a new right.

Amendment

(53) Radio spectrum is a scarce resource that belongs to the Member States and that national specificities and needs must be respected as regards management and assignment, as pointed out by the Commission; developing tools aimed to facilitate dissemination of best practices and experiences between Member States should be considered desirable.

Or. en

Amendment 193

Michał Boni

Proposal for a directive

Recital 53

Text proposed by the Commission

(53) Member States may need to amend rights, conditions, procedures, charges and fees relating to general authorisations and rights of use where this is objectively justified. Such changes should be duly notified to all interested parties in good time, giving them adequate opportunity to express their views on any such amendments. Taking into account the need to ensure legal certainty and to promote regulatory predictability, any restriction or withdrawal of existing rights of use for radio spectrum or to install facilities should be subject to predictable and transparent procedures; hence stricter requirements or a notification mechanism could be imposed where rights of use have been assigned pursuant to competitive or comparative procedures. Unnecessary procedures should be avoided in case of minor amendments to existing rights to install facilities or to use spectrum when such amendments do not impact on third parties' interests. The change in the use of spectrum as a result of the application of technology and service neutrality principles should not be considered a sufficient justification for a withdrawal of rights since it does not constitute the granting of a new right.

Amendment

(53) Member States may need to amend rights, conditions, procedures, charges and fees relating to general authorisations and rights of use where this is objectively justified. Such changes should be duly notified to all interested parties in good time, giving them adequate opportunity to express their views on any such amendments. Taking into account the need to ensure legal certainty and to promote regulatory predictability, any restriction or withdrawal of existing rights of use for radio spectrum or to install facilities should be subject to predictable and transparent procedures; hence stricter requirements or a notification mechanism could be imposed where rights of use have been assigned pursuant to competitive or comparative procedures. ***In the case of right of use for spectrum, the right holder shall have the right to object to any proposed amendment based on its existing and future spectrum usage plan and the need to safeguard investment.*** Unnecessary procedures should be avoided in case of minor amendments to existing rights to install facilities or to use spectrum when such amendments do not impact on third parties' interests. The change in the use of spectrum as a result of the application of technology and service neutrality principles should not be considered a sufficient justification for a withdrawal of rights since it does not constitute the granting of a new right.

Or. en

Justification

Legal certainty as to spectrum usage rights is key to the promotion of investment in mobile networks and in particular in the next generation of mobile, 5G. It is proposed that operators be given the opportunity of objecting to spectrum rights changes on the basis of limited conditions such as future networks spectrum usage plans and the need to safeguard investment not yet fully depreciated.

Amendment 194 **Kaja Kallas**

Proposal for a directive **Recital 57**

Text proposed by the Commission

(57) To alleviate reporting and information obligations for network and service providers and the competent authority concerned, such obligations should be proportionate, objectively justified and limited to what is strictly necessary. In particular, duplication of requests for information by the competent authority, and by BEREC and the systematic and regular proof of compliance with all conditions under a general authorisation or a right of use should be avoided. Undertakings should know the intended use of the information sought. Provision of information should not be a condition for market access. For statistical purposes a notification may be required from providers of electronic communications networks or services when they cease activities.

Amendment

(57) To alleviate reporting and information obligations for network and service providers and the competent authority concerned, such obligations should be proportionate, objectively justified and limited to what is strictly necessary. In particular, duplication of requests for information by the competent authority, and by BEREC and the systematic and regular proof of compliance with all conditions under a general authorisation or a right of use should be avoided. ***Reporting and information obligations for electronic communication services providers operating in several Member states shall be coordinated through the Member state responsible of granting the single general authorisation, without prejudice to information request related to the granting of rights of use for numbers, radio spectrum and for rights to install facilities. BEREC should facilitate the free flow of information between the concerned Member states. Such information should be requested in a common and standardised format.*** Undertakings should know the intended use of the information sought. Provision of information should not be a condition for market access. For statistical purposes a notification may be required from providers of electronic communications

networks or services when they cease activities.

Or. en

Justification

In order to facilitate the provision of crossborder services and the free flow of data, there is a necessity to reduce the administrative burden undertakings have to face as they are currently confronted with different requests in different formats from 28 different administrations, although they provide services that technologically do not rely on borders. In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 195

Angelika Niebler, Markus Pieper

Proposal for a directive

Recital 60

Text proposed by the Commission

(60) Bei den Breitbandnetzen für elektronische Kommunikation herrscht hinsichtlich der Technologie, Topologie, des genutzten Mediums und der Eigentumsverhältnisse eine zunehmende Vielfalt, sodass Regulierungseingriffe auf detaillierten Informationen und Vorhersagen in Bezug auf den Netzausbau beruhen müssen, um wirksam zu sein und die Bereiche, in denen ein Eingreifen nötig ist, gezielt angehen zu können. Diese Informationen sollten Pläne sowohl für den Ausbau von Netzen mit sehr hoher Kapazität als auch für die umfassende Modernisierung oder Erweiterung bestehender Kupfer- und sonstiger Netze enthalten, die möglicherweise nicht in jeder Hinsicht mit den Leistungsmerkmalen von Netzen mit sehr hoher Kapazität übereinstimmen (z. B. Ausbau des Glasfasernetzes bis zum Verteilerkasten, gekoppelt mit aktiven Technologien wie dem Vectoring). Der Detailgrad und die Gebietsgranularität der von den nationalen Regulierungsbehörden erhobenen Informationen sollten dem spezifischen regulatorischen Ziel

Amendment

(60) Bei den Breitbandnetzen für elektronische Kommunikation herrscht hinsichtlich der Technologie, Topologie, des genutzten Mediums und der Eigentumsverhältnisse eine zunehmende Vielfalt, sodass Regulierungseingriffe auf detaillierten Informationen und Vorhersagen in Bezug auf den Netzausbau beruhen müssen, um wirksam zu sein und die Bereiche, in denen ein Eingreifen nötig ist, gezielt angehen zu können. Diese Informationen sollten Pläne sowohl für den Ausbau von Netzen mit sehr hoher Kapazität als auch für die umfassende Modernisierung oder Erweiterung bestehender Kupfer- und sonstiger Netze enthalten, die möglicherweise nicht in jeder Hinsicht mit den Leistungsmerkmalen von Netzen mit sehr hoher Kapazität übereinstimmen (z. B. Ausbau des Glasfasernetzes bis zum Verteilerkasten, gekoppelt mit aktiven Technologien wie dem Vectoring). Der Detailgrad und die Gebietsgranularität der von den nationalen Regulierungsbehörden erhobenen Informationen sollten dem spezifischen regulatorischen Ziel

entsprechen und dem Regulierungszweck, dem sie dienen, angemessen sein. Daher wird sich die Größe der Gebietseinheiten in Abhängigkeit von den Regulierungserfordernissen unter den spezifischen nationalen Gegebenheiten und von der Verfügbarkeit lokaler Daten von Mitgliedstaat zu Mitgliedstaat unterscheiden. Die Ebene 3 der Systematik der Gebietseinheiten für die Statistik (NUTS) wird voraussichtlich als Gebietseinheit unter den meisten Umständen nicht hinreichend klein sein. Die nationalen Regulierungsbehörden sollten den GEREK-Leitlinien über bewährte Verfahren zur Bewältigung einer solchen Aufgabe folgen; diese Leitlinien können auf der bestehenden Erfahrung der nationalen Regulierungsbehörden bei der geografischen Erhebung des Netzausbaus aufbauen. Die nationalen Regulierungsbehörden sollten den Endnutzern Instrumente für die Dienstqualität zur Verfügung stellen, um sie besser über die verfügbaren Netzanbindungsdienste zu informieren.

entsprechen und dem Regulierungszweck, dem sie dienen, angemessen sein. Daher wird sich die Größe der Gebietseinheiten in Abhängigkeit von den Regulierungserfordernissen unter den spezifischen nationalen Gegebenheiten und von der Verfügbarkeit lokaler Daten von Mitgliedstaat zu Mitgliedstaat unterscheiden. Die Ebene 3 der Systematik der Gebietseinheiten für die Statistik (NUTS) wird voraussichtlich als Gebietseinheit unter den meisten Umständen nicht hinreichend klein sein. Die nationalen Regulierungsbehörden sollten den GEREK-Leitlinien über bewährte Verfahren zur Bewältigung einer solchen Aufgabe folgen; diese Leitlinien können auf der bestehenden Erfahrung der nationalen Regulierungsbehörden bei der geografischen Erhebung des Netzausbaus aufbauen. Die nationalen Regulierungsbehörden sollten den Endnutzern Instrumente für die Dienstqualität zur Verfügung stellen, um sie besser über die verfügbaren Netzanbindungsdienste zu informieren. ***Im Rahmen dieser Erhebung haben die nationalen Regulierungsbehörden, die anderen zuständigen Behörden und GEREK den Grundsatz der Verhältnismäßigkeit zu wahren. Hierbei ist insbesondere zu berücksichtigen, dass Unternehmen, die elektronische Kommunikationsnetze und -dienste, zugehörige Einrichtungen oder zugehörige Dienste anbieten, durch die Erhebung der Informationen keine wettbewerblichen Nachteile erleiden.***

Or. de

Justification

Durch die Erhebung der geforderten Informationen dürfen Unternehmen nicht in ihren wettbewerblichen Tätigkeiten beeinträchtigt werden. Die Erhebungen müssen unverhältnismäßig hohen administrativen und bürokratischen Aufwand unbedingt verhindern.

Amendment 196

Eva Kaili

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Proposal for a directive
Recital 60

Text proposed by the Commission

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of

Amendment

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information ***is essential to promote investments , increase connectivity across the EU, give visibility to the involved local authorities and inform the European citizens about their future connectivity.*** That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory

their awareness of the available connectivity services.

authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

Or. en

Amendment 197
Kathleen Van Brempt

Proposal for a directive
Recital 60

Text proposed by the Commission

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory

Amendment

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory

authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out.

National regulatory authorities should apply the appropriate level of confidentiality when dealing with this data in order to protect sensitive business information and the investment positions of the various market players

National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

Or. en

Amendment 198

Miapetra Kumpula-Natri, Dan Nica, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive Recital 60

Text proposed by the Commission

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring.

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Amendment

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information ***is essential to promote investments , increase connectivity across the EU, give visibility to the involved local authorities and inform the European citizens about their future connectivity.*** That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper

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The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

Or. en

Amendment 199
José Blanco López

Proposal for a directive
Recital 60

Text proposed by the Commission

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed

Amendment

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed

information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information *is essential to promote investments , increase connectivity across the EU, give visibility to the involved local authorities and inform the European citizens about their future connectivity.* *That information* should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

Or. en

Amendment 200

Anna Záborská, Ivan Štefanec

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Proposal for a directive
Recital 60

Text proposed by the Commission

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information ***and forecasts*** regarding network roll-out in order to be effective and to target the areas where it is needed. That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper ***or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring.*** The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of

Amendment

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information regarding network roll-out in order to be effective and to target the areas where it is needed. That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

their awareness of the available connectivity services.

Or. en

Amendment 201

Kaja Kallas, Marietje Schaake

Proposal for a directive

Recital 60

Text proposed by the Commission

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be

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Amendment

(60) Electronic communications broadband networks are becoming increasingly diverse in terms of technology, topology, medium used and ownership, therefore, regulatory intervention must rely on detailed information and forecasts regarding network roll-out in order to be effective and to target the areas where it is needed. That information should include plans regarding both deployment of very high capacity networks, as well as significant upgrades or extensions of existing copper or other networks which might not match the performance characteristics of very high capacity networks in all respects, such as roll-out of fibre to the cabinet coupled with active technologies like vectoring. The level of detail and territorial granularity of the information that national regulatory authorities should gather should be guided by the specific regulatory objective, and should be adequate for the regulatory purposes that it serves. Therefore, the size of the territorial unit will also vary between Member States, depending on the regulatory needs in the specific national circumstances, and on the availability of local data. Level 3 in the Nomenclature of Territorial Units for Statistics (NUTS) is unlikely to be a sufficiently small territorial unit in most circumstances. National regulatory authorities should be guided by BEREC guidelines on best practice to approach such a task, and such guidelines will be

able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. National regulatory authorities should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

able to rely on the existing experience of national regulatory authorities in conducting geographical surveys of networks roll-out. ***Without prejudice to confidentiality requirements and protection of business secrets***, National regulatory authorities ***should make available in an open data format and without restrictions to reuse such surveys*** and should make available tools to end-users as regards quality of service to contribute towards the improvement of their awareness of the available connectivity services.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 202

Anna Záborská, Ivan Štefanec

Proposal for a directive

Recital 61

Text proposed by the Commission

Amendment

(61) In the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

deleted

Or. en

Amendment 203
Cora van Nieuwenhuizen

Proposal for a directive
Recital 61

Text proposed by the Commission

(61) In the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

Amendment

(61) In the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question. ***Taking into account the high potential of satellite technologies in bringing connectivity to digital exclusion areas in a cost-efficient manner, national regulatory authorities should inform satellite operators about such calls as well, in order to promote the use of the best technologies based on regional specificities.***

Or. en

Amendment 204
Eva Kaili

Proposal for a directive
Recital 61

Text proposed by the Commission

(61) In the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for

Amendment

(61) ***Bridging digital divide in Europe is essential precondition for achieving a gigabit society where all European will have access to internet and digital***

declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

services. To this end, in the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

Or. en

Amendment 205

Miapetra Kumpula-Natri, Dan Nica, Martina Werner, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive

Recital 61

Text proposed by the Commission

(61) In the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

Amendment

(61) ***Bridging digital divide in Europe is essential precondition for achieving a gigabit society where all European will have access to internet and digital services. To this end***, in the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

Justification

Gigabit society can only be achieved if all European have access to affordable internet.

Amendment 206

José Blanco López

Proposal for a directive**Recital 61***Text proposed by the Commission*

(61) In the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

Amendment

(61) ***Bridging digital divide in Europe is essential precondition for achieving a gigabit society where all European will have access to internet and digital services. To this end,*** in the case of specific and well defined digital exclusion areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

Amendment 207

Barbara Kappel, Angelo Ciocca, Lorenzo Fontana

Proposal for a directive**Recital 61***Text proposed by the Commission*

(61) In the case of specific and well defined digital exclusion areas, national regulatory authorities should have the

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Amendment

(61) In the case of specific and well defined digital exclusion areas, national regulatory authorities should have the

possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in very high capacity networks. In the interests of predictable investment conditions ***and taking account of progressive technology innovation***, national regulatory authorities should be able to share information with undertakings expressing interest in deploying very high-speed networks on whether other types of network upgrades, including those below 100 Mbps download speed, are present or foreseen in the area in question.

Or. en

Amendment 208

Barbara Kappel, Lorenzo Fontana, Angelo Ciocca

Proposal for a directive

Recital 61 a (new)

Text proposed by the Commission

Amendment

(61 a) In underdeveloped areas, national regulatory authorities should have the possibility to organise a call for declarations of interest with the aim of identifying undertakings that are willing to invest in high capacity networks able to provide download speed between 30 and 100 Mbps by 2020.

Or. en

Amendment 209

Kaja Kallas

Proposal for a directive

Recital 66

Text proposed by the Commission

Amendment

(66) One important task assigned to BEREC is to adopt ***opinions*** in relation to cross-border disputes where appropriate.

(66) One important task assigned to BEREC is to adopt ***decisions*** in relation to cross-border disputes where appropriate.

National regulatory authorities should therefore fully *reflect any opinion* taken by BEREC in their measures imposing any obligation on an undertaking or otherwise resolving the dispute in such cases.

National regulatory authorities should therefore fully *implement the decision* taken by BEREC in their measures imposing any obligation on an undertaking or otherwise resolving the dispute in such cases.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 210 **Michal Boni**

Proposal for a directive **Recital 84**

Text proposed by the Commission

(84) By virtue of their overall economic expertise and market knowledge, and of the objective and technical character of their assessments, and in order to ensure coherence with their other tasks of market regulation, national regulatory authorities should determine the elements of selection procedures and the conditions attached to the rights of use for spectrum which have the greatest impact on market conditions and the competitive situation, including conditions for entry and expansion. That includes for example the parameters for economic valuation of spectrum in compliance with this Directive, the specification of the regulatory and market-shaping measures such as the use of spectrum caps or reservation of spectrum or the imposition of wholesale access obligations, or the means to define the coverage conditions attached to rights of use. A more convergent use and definition of such elements would be favoured by a coordination mechanism whereby BEREC, the Commission and the national regulatory authorities of the other Member States would review draft measures in

Amendment

(84) By virtue of their overall economic expertise and market knowledge, and of the objective and technical character of their assessments, and in order to ensure coherence with their other tasks of market regulation, national regulatory authorities should determine the elements of selection procedures and the conditions attached to the rights of use for spectrum which have the greatest impact on market conditions and the competitive situation, including conditions for entry and expansion. That includes for example the parameters for economic valuation of spectrum in compliance with this Directive, the specification of the regulatory and market-shaping measures such as the use of spectrum caps or reservation of spectrum or the imposition of wholesale access obligations, or the means to define the coverage conditions attached to rights of use. A more convergent use and definition of such elements would be favoured by a coordination mechanism whereby BEREC, the Commission and the national regulatory authorities of the other Member States would review draft measures in

advance of the granting of rights of use by a given Member State in parallel to the national public consultation. The measure determined by the national regulatory authority can only be a subset of a wider national measure, which may more broadly consist of the granting, trade and lease, duration, renewal or the amendment of rights of use for radio spectrum as well as of the selection procedure or the conditions attached to the rights of use. Therefore, when notifying a draft measure, national regulatory authorities may provide information on other draft national measures related to the relevant selection procedure for limiting rights of use for radio spectrum which are not covered by the peer review mechanism.

advance of the granting of rights of use by a given Member State in parallel to the national public consultation. ***It is also important that, prior to defining their country's spectrum policy in relation to spectrum licensing, national regulatory authority be in a position to refer to common set of principles regarding spectrum assignment in the EU. BEREC will be responsible for elaborating and updating such guidelines as soon as practicable after the adoption of the Code. Member States should take the utmost account of BEREC's guidelines.*** The measure determined by the national regulatory authority can only be a subset of a wider national measure, which may more broadly consist of the granting, trade and lease, duration, renewal or the amendment of rights of use for radio spectrum as well as of the selection procedure or the conditions attached to the rights of use. Therefore, when notifying a draft measure, national regulatory authorities may provide information on other draft national measures related to the relevant selection procedure for limiting rights of use for radio spectrum which are not covered by the peer review mechanism.

Or. en

Justification

While the Commission's intention is to maintain spectrum management within each Member State's principal responsibility, European markets are likely to continue to be segmented on the basis of national borders as long as there is a lack of uniform application of spectrum policy. While the peer review process will result in some ex post coordination between Member States, such a process will lack predictability and delay by several years the establishment of coordination policies between national regulatory authorities and ultimately Member States.

Amendment 211
Kaja Kallas

Proposal for a directive
Recital 86

Text proposed by the Commission

Amendment

(86) Member States should be ***encouraged*** to consider joint authorisations as an option when issuing rights of use where the expected usage covers cross-border situations.

(86) Member States should be ***obliged*** to consider joint authorisations as an option when issuing rights of use where the expected usage covers cross-border situations ***and there is a significant risk of crossborder harmful interference. They should in addition be encouraged to consider such joint authorisations in particular on request of market participants which provide evidence of a crossborder demand for the provision of paneuropean services.***

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 212
Michal Boni

Proposal for a directive
Recital 86

Text proposed by the Commission

Amendment

(86) Member States should be encouraged to consider joint authorisations as an option when issuing rights of use where the expected usage covers cross-border situations.

(86) Member States should be encouraged to consider joint authorisations as an option when issuing rights of use where the expected usage covers cross-border situations. ***Member States should also have the option of empowering BEREC, RSPG or the Commission with the responsibility of conducting the selection process.***

Or. en

Justification

The establishment of joint licensing procedure will facilitate the emergence of pan-European licensing policies. While Member States will retain an important role in this process, they should be given the possibility of empowering the Commission or BEREC and RSPG with the responsibility of conducting the selection process.

Amendment 213
Miapetra Kumpula-Natri

Proposal for a directive
Recital 91 a (new)

Text proposed by the Commission

Amendment

(91 a) Providers of public communications networks or of publicly available electronic communications services should inform end- users of measures they can take to protect the security of their communications, for instance by using specific types of software or encryption technologies. The requirement to inform end-users of particular security risks should not discharge a service provider from the obligation to take, at its own costs, appropriate and immediate measures to remedy any new, unforeseen security risks and restore the normal security level of the service. The provision of information about security risks to the subscriber should be free of charge.

Or. en

Amendment 214
Kaja Kallas, Marietje Schaake

Proposal for a directive
Recital 91 a (new)

Text proposed by the Commission

Amendment

(91 a) In order to ensure a safeguard to the security and integrity of networks and services, the use of end-to-end encryption should be promoted and, where necessary, be mandatory in accordance with the principles of data protection by design and privacy by design; in particular, Member States should not impose any obligation to encryption providers, providers of electronic communications

services and all other organisations (at all levels of the supply chain) that would result in the weakening of the security of their networks and services, such as the allowing or facilitation of "backdoors";

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 215

Michal Boni, Françoise Grossetête, Anne Sander

Proposal for a directive

Recital 93

Text proposed by the Commission

(93) Where the provision of electronic communications relies on public resources whose use is subject to specific authorisation, Member States may grant the authority competent for issuance thereof the right to impose fees to ensure optimal use of those resources, in accordance with the procedures envisaged in this Directive. In line with the case-law of the Court of Justice, Member States cannot levy any charges or fees in relation to the provision of networks and electronic communications services other than those provided for by this Directive. In that regard, Member States should have a coherent approach in establishing those charges or fees in order not to provide an undue financial burden linked to the general authorisation procedure or rights of use for undertakings providing electronic communications networks and services.

Amendment

(93) Where the provision of electronic communications relies on public resources whose use is subject to specific authorisation, Member States may grant the authority competent for issuance thereof the right to impose fees to ensure optimal use of those resources, in accordance with the procedures envisaged in this Directive. ***Such use can be ensured by setting the fees at a level reflecting the value of the spectrum at its next best use.*** In line with the case-law of the Court of Justice, Member States cannot levy any charges or fees in relation to the provision of networks and electronic communications services other than those provided for by this Directive. In that regard, Member States should have a coherent approach in establishing those charges or fees in order not to provide an undue financial burden linked to the general authorisation procedure or rights of use for undertakings providing electronic communications networks and services.

Or. en

Justification

The Code states several criteria which fees must take into account, but ultimately fails to set out clear guidance on best practice for establishing spectrum fees. The Code should provide that fees need to reflect the value of the spectrum for its next best use (i.e. the opportunity costs).

Amendment 216

Michał Boni, Françoise Grossetête, Anne Sander

Proposal for a directive

Recital 95

Text proposed by the Commission

(95) In line with their role of ensuring optimal use of radio spectrum, fees linked to rights of use for radio spectrum can influence decisions about whether to seek such rights and put into use radio spectrum resources. When setting reserve prices as a means to determine the minimum valuation ensuring optimal use, Member States should therefore ensure that such prices, irrespective of the type of selection procedure used, ***also reflect*** the additional costs associated with the fulfilment of authorisation conditions imposed to further policy objectives that would not reasonably be expected to be met pursuant to normal commercial standards, such as territorial coverage conditions. In doing so, regard should also be had to the competitive situation of the market concerned.

Amendment

(95) In line with their role of ensuring optimal use of radio spectrum, fees linked to rights of use for radio spectrum can influence decisions about whether to seek such rights and put into use radio spectrum resources. When setting reserve prices as a means to determine the minimum valuation ensuring optimal use, Member States should therefore ensure that such prices, irrespective of the type of selection procedure used, ***reflect and be proportionate to*** the additional costs associated with the fulfilment of authorisation conditions imposed to further policy objectives that would not reasonably be expected to be met pursuant to normal commercial standards, such as territorial coverage conditions. In doing so, regard should also be had to the competitive situation of the market concerned.

Or. en

Justification

Providing such clear guidance would have the advantage of reducing pricing disparities from Member State to Member State.

Amendment 217

Cora van Nieuwenhuizen

Proposal for a directive

Recital 103

Text proposed by the Commission

(103) Ensuring ubiquitous connectivity in each Member State is essential for economic and social development, participation in public life and social and territorial cohesion. As connectivity becomes an integral element to European society and welfare, EU-wide coverage should be achieved by relying on imposition by Member States of appropriate coverage requirements, which should be adapted to each area served and limited to proportionate burdens in order not to hinder deployment by service providers. Coverage of the territory as well as connectivity across Member States should be maximised and reliable, with a view to promote in-border and cross-border services and applications such as connected cars and e-health. Therefore, in order to increase regulatory certainty and predictability of investment needs and to guarantee proportionate and equitable connectivity for all citizens, application by competent authorities of coverage obligations should be coordinated at Union level. Considering national specificities, such coordination should be limited to general criteria to be used to define and measure coverage obligations, such as population density or topographical and topological features.

Amendment

(103) Ensuring ubiquitous connectivity in each Member State is essential for economic and social development, participation in public life and social and territorial cohesion. As connectivity becomes an integral element to European society and welfare, EU-wide coverage should be achieved by relying on imposition by Member States of appropriate coverage requirements, which should be adapted to each area served and limited to proportionate burdens in order not to hinder deployment by service providers. Coverage of the territory as well as connectivity across Member States should be maximised and reliable, with a view to promote in-border and cross-border services and applications such as connected cars and e-health. Therefore, in order to increase regulatory certainty and predictability of investment needs and to guarantee proportionate and equitable connectivity for all citizens, application by competent authorities of coverage obligations should be coordinated at Union level. Considering national specificities, such coordination should be limited to general criteria to be used to define and measure coverage obligations, such as population density or topographical and topological features, ***while taking into account the principle of technology neutrality, in order to stimulate a combination of the best technologies per region.***

Or. en

Amendment 218

Barbara Kappel, Lorenzo Fontana, Angelo Ciocca

Proposal for a directive

Recital 103

(103) Ensuring ubiquitous connectivity in each Member State is essential for economic and social development, participation in public life and social and territorial cohesion. As connectivity becomes an integral element to European society and welfare, EU-wide coverage should be achieved by relying on imposition by Member States of appropriate coverage requirements, which should be adapted to each area served and limited to proportionate burdens in order not to hinder deployment by service providers. Coverage of the territory as well as connectivity across Member States should be maximised and reliable, with a view to promote in-border and cross-border services and applications such as connected cars and e-health. Therefore, in order to increase regulatory certainty and predictability of investment needs and to guarantee proportionate and equitable connectivity for all citizens, application by competent authorities of coverage obligations should be coordinated at Union level. Considering national specificities, such coordination should be limited to general criteria to be used to define and measure coverage obligations, such as population density or topographical and topological features.

(103) Ensuring ubiquitous connectivity in each Member State is essential for economic and social development, participation in public life and social and territorial cohesion. As connectivity becomes an integral element to European society and welfare, EU-wide coverage should be achieved by relying on imposition by Member States of appropriate coverage requirements, which should be adapted to each area served and limited to proportionate burdens in order not to hinder deployment by service providers. Coverage of the territory as well as connectivity across Member States should be maximised and reliable, with a view to promote in-border and cross-border services and applications such as connected cars and e-health. Therefore, in order to increase regulatory certainty and predictability of investment needs and to guarantee proportionate and equitable connectivity for all citizens, application by competent authorities of coverage obligations should be coordinated at Union level. Considering national specificities, such coordination should be limited to general criteria to be used to define and measure coverage obligations, such as population density or topographical and topological features, *in accordance with the principle of technology neutrality*.

Or. en

Amendment 219

Miapetra Kumpula-Natri, Dan Nica, Martina Werner, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive

Recital 103

(103) Ensuring ubiquitous connectivity in each Member State is essential for economic and social development,

(103) Ensuring ubiquitous connectivity in each Member State is essential for economic and social development,

participation in public life and social and territorial cohesion. As connectivity becomes an integral element to European society and welfare, EU-wide coverage should be achieved by relying on imposition by Member States of appropriate coverage requirements, which should be adapted to each area served and limited to proportionate burdens in order not to hinder deployment by service providers. Coverage of the territory as well as connectivity across Member States should be maximised and reliable, with a view to promote in-border and cross-border services and applications such as connected cars and e-health. Therefore, in order to increase regulatory certainty and predictability of investment needs and to guarantee proportionate and equitable connectivity for all citizens, application by competent authorities of coverage obligations should be coordinated at Union level. Considering national specificities, such coordination should be limited to general criteria to be used to define and measure coverage obligations, such as population density or topographical and topological features.

participation in public life and social and territorial cohesion. As connectivity becomes an integral element to European society and welfare, EU-wide coverage *to cover close to 100 percent of European citizens* should be achieved by relying on imposition by Member States of appropriate coverage requirements, which should be adapted to each area served and limited to proportionate burdens in order not to hinder deployment by service providers. Coverage of the territory as well as connectivity across Member States should be maximised and reliable, with a view to promote in-border and cross-border services and applications such as connected cars and e-health. Therefore, in order to increase regulatory certainty and predictability of investment needs and to guarantee proportionate and equitable connectivity for all citizens, application by competent authorities of coverage obligations should be coordinated at Union level. Considering national specificities, such coordination should be limited to general criteria to be used to define and measure coverage obligations, such as population density or topographical and topological features.

Or. en

Justification

Coverage obligations are an important instrument towards gigabit society for all European citizens.

Amendment 220

Eva Kaili

Proposal for a directive

Recital 103

Text proposed by the Commission

(103) Ensuring ubiquitous connectivity in each Member State is essential for economic and social development, participation in public life and social and

Amendment

(103) Ensuring ubiquitous connectivity in each Member State is essential for economic and social development, participation in public life and social and

territorial cohesion. As connectivity becomes an integral element to European society and welfare, EU-wide coverage should be achieved by relying on imposition by Member States of appropriate coverage requirements, which should be adapted to each area served and limited to proportionate burdens in order not to hinder deployment by service providers. Coverage of the territory as well as connectivity across Member States should be maximised and reliable, with a view to promote in-border and cross-border services and applications such as connected cars and e-health. Therefore, in order to increase regulatory certainty and predictability of investment needs and to guarantee proportionate and equitable connectivity for all citizens, application by competent authorities of coverage obligations should be coordinated at Union level. Considering national specificities, such coordination should be limited to general criteria to be used to define and measure coverage obligations, such as population density or topographical and topological features.

territorial cohesion. As connectivity becomes an integral element to European society and welfare, EU-wide coverage ***to cover close to 100 percent of European citizens*** should be achieved by relying on imposition by Member States of appropriate coverage requirements, which should be adapted to each area served and limited to proportionate burdens in order not to hinder deployment by service providers. Coverage of the territory as well as connectivity across Member States should be maximised and reliable, with a view to promote in-border and cross-border services and applications such as connected cars and e-health. Therefore, in order to increase regulatory certainty and predictability of investment needs and to guarantee proportionate and equitable connectivity for all citizens, application by competent authorities of coverage obligations should be coordinated at Union level. Considering national specificities, such coordination should be limited to general criteria to be used to define and measure coverage obligations, such as population density or topographical and topological features.

Or. en

Amendment 221
Pilar del Castillo Vera

Proposal for a directive
Recital 105

Text proposed by the Commission

(105) Spectrum harmonisation and coordination and equipment regulation supported by standardisation are complementary need to be coordinated closely to meet their joint objectives effectively, with the support of the RSPG. Coordination between the content and timing of mandates to CEPT under the Radio Spectrum Decision and standardisation requests to standardisation

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Amendment

(105) Spectrum harmonisation and coordination and equipment regulation supported by standardisation are complementary need to be coordinated closely to meet their joint objectives effectively, with the support of the RSPG. Coordination between the content and timing of mandates to CEPT under the Radio Spectrum Decision and standardisation requests to standardisation

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bodies, such as the European Telecommunications Standards Institute, including with regard to radio receivers parameters, should facilitate the introduction of future systems, support spectrum sharing opportunities and ensure efficient spectrum management.

bodies, such as the European Telecommunications Standards Institute, including with regard to radio receivers parameters, should facilitate the introduction of future systems, support spectrum sharing opportunities and ensure efficient spectrum management. ***Any standards, specifications or recommendations concerning network elements and associated facilities, whether fixed or mobile, should where feasible take into account any access obligations which may need to be imposed pursuant to this Directive.***

Or. en

Justification

Inextricably linked to other amendment

Amendment 222 **Kaja Kallas**

Proposal for a directive **Recital 106**

Text proposed by the Commission

(106) The demand for harmonised radio spectrum is not uniform in all parts of the Union. In cases where there is lack of demand for a harmonised band at regional or national level, Member States could exceptionally be able to allow an alternative use of the band as long as such lack of demand persists and provided that the alternative use does not prejudice the harmonised use of the said band by other Member States and that it ceases when demand for the harmonised use materialises.

Amendment

(106) The demand for harmonised radio spectrum is not uniform in all parts of the Union. In cases where there is lack of demand for a harmonised band at regional or national level, Member States could exceptionally be able to allow an alternative use of the band as long as such lack of demand persists, ***is based on a forward-looking assessment of market development*** and provided that the alternative use does not prejudice the harmonised use of the said band by other Member States and that it ceases when demand for the harmonised use materialises.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 223

Morten Helveg Petersen

Proposal for a directive

Recital 111

Text proposed by the Commission

(111) In exceptional cases where Member States decide to limit the freedom to provide electronic communications networks and services based on grounds of public policy, public security or public health, *Member States* should *explain the reasons for such limitation*.

Amendment

(111) In exceptional cases where Member States decide to limit the freedom to provide electronic communications networks and services based on grounds of public policy, public security or public health, *such limitations* should *be duly reasoned, provided for by law, respect the essence of the rights and freedoms recognised by the Charter and be subject to the principle of proportionality, in accordance with Article 52 (1) of the Charter. Furthermore, any national law allowing public authorities to obtain access to networks or the contents of electronic communications on a generalised basis should be regarded as compromising the essence of the fundamental right to respect for private life, as guaranteed by Article 7 of the Charter*.

Or. en

Amendment 224

Cora van Nieuwenhuizen

Proposal for a directive

Recital 113

Text proposed by the Commission

(113) With growing spectrum demand and new varying applications and technologies which necessitate more

Amendment

(113) With growing spectrum demand and new varying applications and technologies which necessitate more

flexible access and use of spectrum, Member States should promote the shared use of spectrum by determining the most appropriate authorisation regimes for each scenario and by defining appropriate and transparent rules and conditions therefor. Shared use of spectrum increasingly ensures its effective and efficient use by allowing several independent users or devices to access the same frequency band under various types of legal regimes so as to make additional spectrum resources available, raise usage efficiency and facilitate spectrum access for new users. Shared use can be based on general authorisations or licence-exempt use allowing, under specific sharing conditions, several users to access and use the same spectrum in different geographic areas or at different moments in time. It can also be based on individual rights of use under arrangements such as licenced shared access where all users (with an existing user and new users) agree on the terms and conditions for shared access, under the supervision of the competent authorities, in such a way as to ensure a minimum guaranteed radio transmission quality. When allowing shared use under different authorisation regimes, Member States should not set widely diverging durations for such use under different authorisation regimes.

flexible access and use of spectrum, Member States should promote the shared use of spectrum by determining the most appropriate authorisation regimes for each scenario and by defining appropriate and transparent rules and conditions therefor. ***In this process, Member States should guarantee the unhampered continuation of existing services making use of spectrum, such as satellite connectivity of different nature, notably communication, earth observation and geo-navigation.*** Shared use of spectrum increasingly ensures its effective and efficient use by allowing several independent users or devices to access the same frequency band under various types of legal regimes so as to make additional spectrum resources available, raise usage efficiency and facilitate spectrum access for new users. Shared use can be based on general authorisations or licence-exempt use allowing, under specific sharing conditions, several users to access and use the same spectrum in different geographic areas or at different moments in time. It can also be based on individual rights of use under arrangements such as licenced shared access where all users (with an existing user and new users) agree on the terms and conditions for shared access, under the supervision of the competent authorities, in such a way as to ensure a minimum guaranteed radio transmission quality. When allowing shared use under different authorisation regimes, Member States should not set widely diverging durations for such use under different authorisation regimes.

Or. en

Amendment 225

Kaja Kallas, Marietje Schaake

Proposal for a directive

Recital 119

(119) Member States should only impose, prior to the granting of right, the verification of elements that can reasonably be demonstrated by an applicant exercising ordinary care, taking due account of the important public and market value of radio spectrum as a scarce public resource. This is without prejudice to the possibility for subsequent verification of the fulfilment of eligibility criteria, for example through milestones, where criteria could not reasonably be met initially. To preserve effective and efficient use of radio spectrum, Member States should not grant rights where their review indicates applicants' inability to comply with the conditions, without prejudice to the possibility of facilitating time-limited experimental use. Sufficiently long duration of authorisations for the use of spectrum should increase investment predictability to contribute to faster network roll-out and better services, as well as stability to support spectrum trading and leasing. Unless use of spectrum is authorised for an unlimited period of time, such duration should both take account of the objectives pursued and be sufficient to facilitate recoupment of the investments made. While a longer duration can ensure investment predictability, measures to ensure effective and efficient use of radio spectrum, such as the power of the competent authority to amend or withdraw the right in case of non-compliance with the conditions attached to the rights of use, or the facilitation of radio spectrum tradability and leasing, will serve to prevent inappropriate accumulation of radio spectrum and support greater flexibility in distributing spectrum resources. Greater recourse to annualised fees is also a means to ensure a continuous assessment of the use of the spectrum by the holder of the right.

(119) Member States should only impose, prior to the granting of right, the verification of elements that can reasonably be demonstrated by an applicant exercising ordinary care, taking due account of the important public and market value of radio spectrum as a scarce public resource. This is without prejudice to the possibility for subsequent verification of the fulfilment of eligibility criteria, for example through milestones, where criteria could not reasonably be met initially. To preserve effective and efficient use of radio spectrum, Member States should not grant rights where their review indicates applicants' inability to comply with the conditions, without prejudice to the possibility of facilitating time-limited experimental use. Sufficiently long ***maximum*** duration of authorisations for the use of spectrum should increase investment predictability to contribute to faster network roll-out and better services, as well as stability to support spectrum trading and leasing, ***subject to regular reviews to assess whether market development and technological innovation allow for a more efficient use of spectrum.*** Unless use of spectrum is authorised for an unlimited period of time, such duration should both take account of the objectives pursued and be sufficient to facilitate recoupment of the investments made. While a longer duration can ensure investment predictability, measures to ensure effective and efficient use of radio spectrum, such as the power of the competent authority to amend or withdraw the right in case of non-compliance with the conditions attached to the rights of use, or the facilitation of radio spectrum tradability and leasing, will serve to prevent inappropriate accumulation of radio spectrum and support greater flexibility in distributing spectrum resources. Greater recourse to annualised fees is also a means to ensure a continuous

assessment of the use of the spectrum by the holder of the right.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 226

Miapetra Kumpula-Natri

Proposal for a directive

Recital 119

Text proposed by the Commission

(119) Member States should only impose, prior to the granting of right, the verification of elements that can reasonably be demonstrated by an applicant exercising ordinary care, taking due account of the important public and market value of radio spectrum as a scarce public resource. This is without prejudice to the possibility for subsequent verification of the fulfilment of eligibility criteria, for example through milestones, where criteria could not reasonably be met initially. To preserve effective and efficient use of radio spectrum, Member States should not grant rights where their review indicates applicants' inability to comply with the conditions, without prejudice to the possibility of facilitating time-limited experimental use. Sufficiently long duration of authorisations for the use of spectrum should increase investment predictability to contribute to faster network roll-out and better services, as well as stability to support spectrum trading and leasing. Unless use of spectrum is authorised for an unlimited period of time, such duration should both take account of the objectives pursued and be sufficient to facilitate recoupment of the investments made. While a longer duration can ensure investment predictability,

Amendment

(119) Member States should only impose, prior to the granting of right, the verification of elements that can reasonably be demonstrated by an applicant exercising ordinary care, taking due account of the important public and market value of radio spectrum as a scarce public resource. This is without prejudice to the possibility for subsequent verification of the fulfilment of eligibility criteria, for example through milestones, where criteria could not reasonably be met initially. To preserve effective and efficient use of radio spectrum, Member States should not grant rights where their review indicates applicants' inability to comply with the conditions, without prejudice to the possibility of facilitating time-limited experimental use. Sufficiently long duration of authorisations for the use of spectrum should increase investment predictability to contribute to faster network roll-out and better services, as well as stability to support spectrum trading and leasing. Unless use of spectrum is authorised for an unlimited period of time, such duration should both take account of the objectives pursued and be sufficient to facilitate recoupment of the investments made. While a longer duration can ensure investment predictability,

measures to ensure effective and efficient use of radio spectrum, such as the power of the competent authority to amend or withdraw the right in case of non-compliance with the conditions attached to the rights of use, or the facilitation of radio spectrum tradability and leasing, will serve to prevent inappropriate accumulation of radio spectrum and support greater flexibility in distributing spectrum resources. Greater recourse to annualised fees is also a means to ensure a continuous assessment of the use of the spectrum by the holder of the right.

measures to ensure effective and efficient use of radio spectrum *is equally important*, such as the power of the competent authority to *make a mid-term assessment following the granting of the rights of use, and to* amend or withdraw the right in case of non-compliance with the conditions attached to the rights of use, or the facilitation of radio spectrum tradability and leasing, *and* will serve to prevent inappropriate accumulation of radio spectrum and support greater flexibility in distributing spectrum resources. Greater recourse to annualised fees is also a means to ensure a continuous assessment of the use of the spectrum by the holder of the right.

Or. en

Amendment 227

Miapetra Kumpula-Natri

Proposal for a directive

Recital 124

Text proposed by the Commission

(124) Measures taken specifically to promote competition when granting or renewing rights of use for radio spectrum should be decided by national regulatory authorities, which have the necessary economic, technical and market knowledge. Spectrum assignment conditions can influence the competitive situation in electronic communications markets and conditions for entry. Limited access to spectrum, in particular when spectrum is scarce, can create a barrier to entry or hamper investment, network roll-out, the provision of new services or applications, innovation and competition. New rights of use, including those acquired through transfer or leasing, and the introduction of new flexible criteria for spectrum use can also influence existing competition. Where unduly applied, certain conditions used to promote competition,

Amendment

(124) Measures taken specifically to promote competition when granting or renewing rights of use for radio spectrum should be decided by national regulatory authorities, which have the necessary economic, technical and market knowledge. Spectrum assignment conditions can influence the competitive situation in electronic communications markets and conditions for entry. Limited access to spectrum, in particular when spectrum is scarce, can create a barrier to entry or hamper investment, network roll-out, the provision of new services or applications, innovation and competition. New rights of use, including those acquired through transfer or leasing, and the introduction of new flexible criteria for spectrum use can also influence existing competition. Where unduly applied, certain conditions used to promote competition,

can have other effects; for example, spectrum caps and reservations can create artificial scarcity, wholesale access obligations can unduly constrain business models in the absence of market power, and limits on transfers can impede the development of secondary markets. Therefore, a consistent and objective competition test for the imposition of such conditions is necessary and should be applied consistently. The use of such measures should therefore be based on a thorough and objective assessment, by national regulatory authorities, of the market and the competitive conditions thereof.

can have other effects; for example, spectrum caps and reservations can create artificial scarcity, wholesale access obligations can unduly constrain business models in the absence of market power, and limits on transfers can impede the development of secondary markets. Therefore, a consistent and objective competition test for the imposition of such conditions is necessary and should be applied consistently. The use of such measures should therefore be based on a thorough and objective assessment, by national regulatory authorities, of the market and the competitive conditions thereof. ***National Regulatory Authorities should however make sure that spectrum is used in an effective and efficient way, facilitating competition and not used only by a limited number of actors in order to limit competition.***

Or. en

Amendment 228
Kaja Kallas

Proposal for a directive
Recital 127

Text proposed by the Commission

(127) Massive growth in radio spectrum demand, and in end-user demand for wireless broadband capacity, calls for solutions allowing alternative, complementary, spectrally efficient access solutions, including low-power wireless access systems with a small-area operating range such as radio local area networks (RLAN) and networks of low-power small-size cellular access points. Such complementary wireless access systems, in particular publicly accessible RLAN access points, increase access to the internet for end-users and mobile traffic off-loading for mobile operators. RLANs use harmonised radio spectrum without requiring an individual authorisation or spectrum usage

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Amendment

(127) Massive growth in radio spectrum demand, and in end-user demand for wireless broadband capacity, calls for solutions allowing alternative, complementary, spectrally efficient access solutions, including low-power wireless access systems with a small-area operating range such as radio local area networks (RLAN) and networks of low-power small-size cellular access points. Such complementary wireless access systems, in particular publicly accessible RLAN access points, increase access to the internet for end-users and mobile traffic off-loading for mobile operators. RLANs use harmonised radio spectrum without requiring an individual authorisation or spectrum usage

right. Most RLAN access points are so far used by private users as local wireless extension of their fixed broadband connection. End-users, within the limits of their own internet subscription, should not be prevented from sharing access to their RLAN with others, so as to increase the number of available access points, particularly in densely populated areas, maximise wireless data capacity through radio spectrum re-use and create a cost-effective complementary wireless broadband infrastructure accessible to other end-users. Therefore, unnecessary restrictions to the deployment and interlinkage of RLAN access points should also be removed. Public authorities or public service providers, who use RLANs in their premises for their personnel, visitors or clients, for example to facilitate access to e-Government services or for information on public transport or road traffic management, could also provide access to such access points for general use by citizens as an ancillary service to services they offer to the public on such premises, to the extent allowed by competition and public procurement rules. Moreover, the provider of such local access to electronic communications networks within or around a private property or a limited public area on a non-commercial basis or as an ancillary service to another activity that is not dependant on such access (such as RLAN hotspots made available to customers of other commercial activities or to the general public in that area) can be subject to compliance with general authorisations for rights of use for radio spectrum but should not be subject to any conditions or requirements attached to general authorisations applicable to providers of public communications networks or services or to obligations regarding end-users or interconnection. However, such provider should remain subject to the liability rules of Article 12 of Directive 2000/31/EC on electronic commerce³⁵. Further technologies such as LiFi are emerging that will complement current radio spectrum capabilities of

right. Most RLAN access points are so far used by private users as local wireless extension of their fixed broadband connection. End-users, within the limits of their own internet subscription, should not be prevented from sharing access to their RLAN with others, so as to increase the number of available access points, particularly in densely populated areas, maximise wireless data capacity through radio spectrum re-use and create a cost-effective complementary wireless broadband infrastructure accessible to other end-users. Therefore, unnecessary restrictions to the deployment and interlinkage of RLAN access points should also be removed. Public authorities or public service providers, who use RLANs in their premises for their personnel, visitors or clients, for example to facilitate access to e-Government services or for information on public transport or road traffic management, could also provide access to such access points for general use by citizens as an ancillary service to services they offer to the public on such premises, to the extent allowed by competition and public procurement rules. Moreover, the provider of such local access to electronic communications networks within or around a private property or a limited public area on a non-commercial basis or as an ancillary service to another activity that is not dependant on such access (such as RLAN hotspots made available to customers of other commercial activities or to the general public in that area) can be subject to compliance with general authorisations for rights of use for radio spectrum but should not be subject to any conditions or requirements attached to general authorisations applicable to providers of public communications networks or services or to obligations regarding end-users or interconnection. However, such provider should ***not*** remain subject to the liability rules of Article 12 of Directive 2000/31/EC on electronic commerce³⁵ ***as the liability of individuals providing local access to third party for a non commercial purpose over content***

RLANs and wireless access point to include optical visible light-based access points and lead to hybrid local area networks allowing optical wireless communication.

transmitted through their network that they do not control would discourage them to do so. Further technologies such as LiFi are emerging that will complement current radio spectrum capabilities of RLANs and wireless access point to include optical visible light-based access points and lead to hybrid local area networks allowing optical wireless communication.

³⁵ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), (OJ L 178, 17.7.2000, p.1).

³⁵ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), (OJ L 178, 17.7.2000, p.1).

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 229

Michel Reimon

on behalf of the Verts/ALE Group

Julia Reda

Proposal for a directive

Recital 127

Text proposed by the Commission

(127) Massive growth in radio spectrum demand, and in end-user demand for wireless broadband capacity, calls for solutions allowing alternative, complementary, spectrally efficient access solutions, including low-power wireless access systems with a small-area operating range such as radio local area networks (RLAN) and networks of low-power small-size cellular access points. Such complementary wireless access systems, in particular publicly accessible RLAN access

Amendment

(127) Massive growth in radio spectrum demand, and in end-user demand for wireless broadband capacity, calls for solutions allowing alternative, complementary, spectrally efficient access solutions, including low-power wireless access systems with a small-area operating range such as radio local area networks (RLAN) and networks of low-power small-size cellular access points. Such complementary wireless access systems, in particular publicly accessible RLAN access

points, increase access to the internet for end-users and mobile traffic off-loading for mobile operators. RLANs use harmonised radio spectrum without requiring an individual authorisation or spectrum usage right. Most RLAN access points are so far used by private users as local wireless extension of their fixed broadband connection. End-users, within the limits of their own internet subscription, should ***not be prevented from sharing*** access to their RLAN with others, so as to increase the number of available access points, particularly in densely populated areas, maximise wireless data capacity through radio spectrum re-use and create a cost-effective complementary wireless broadband infrastructure accessible to other end-users. Therefore, unnecessary restrictions to the deployment and interlinkage of RLAN access points should also be removed. Public authorities or public service providers, who use RLANs in their premises for their personnel, visitors or clients, for example to facilitate access to e-Government services or for information on public transport or road traffic management, could also provide access to such access points for general use by citizens as an ancillary service to services they offer to the public on such premises, to the extent allowed by competition and public procurement rules. Moreover, the provider of such local access to electronic communications networks within or around a private property or a limited public area on a non-commercial basis or as an ancillary service to another activity that is not dependant on such access (such as RLAN hotspots made available to customers of other commercial activities or to the general public in that area) can be subject to compliance with general authorisations for rights of use for radio spectrum but should not be subject to any conditions or requirements attached to general authorisations applicable to providers of public communications networks or services or to obligations regarding end-users or interconnection. However, such provider should remain

points, increase access to the internet for end-users and mobile traffic off-loading for mobile operators. RLANs use harmonised radio spectrum without requiring an individual authorisation or spectrum usage right. Most RLAN access points are so far used by private users as local wireless extension of their fixed broadband connection. End-users, within the limits of their own internet subscription, should ***be encouraged to share*** access to their RLAN with others, so as to increase the number of available access points, particularly in densely populated areas, maximise wireless data capacity through radio spectrum re-use and create a cost-effective complementary wireless broadband infrastructure accessible to other end-users. Therefore, unnecessary restrictions to the deployment and interlinkage of RLAN access points should also be removed. Public authorities or public service providers, who use RLANs in their premises for their personnel, visitors or clients, for example to facilitate access to e-Government services or for information on public transport or road traffic management, could also provide access to such access points for general use by citizens as an ancillary service to services they offer to the public on such premises, to the extent allowed by competition and public procurement rules. Moreover, the provider of such local access to electronic communications networks within or around a private property or a limited public area on a non-commercial basis or as an ancillary service to another activity that is not dependant on such access (such as RLAN hotspots made available to customers of other commercial activities or to the general public in that area) can be subject to compliance with general authorisations for rights of use for radio spectrum but should not be subject to any conditions or requirements attached to general authorisations applicable to providers of public communications networks or services or to obligations regarding end-users or interconnection. However, such provider, ***as well as end***

subject to the liability rules of Article 12 of Directive 2000/31/EC on electronic commerce³⁵. Further technologies such as LiFi are emerging that will complement current radio spectrum capabilities of RLANs and wireless access point to include optical visible light-based access points and lead to hybrid local area networks allowing optical wireless communication.

³⁵ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), (OJ L 178, 17.7.2000, p.1).

users or consumers sharing access should remain subject to the liability rules of Article 12 of Directive 2000/31/EC on electronic commerce³⁵. Further technologies such as LiFi are emerging that will complement current radio spectrum capabilities of RLANs and wireless access point to include optical visible light-based access points and lead to hybrid local area networks allowing optical wireless communication.

³⁵ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), (OJ L 178, 17.7.2000, p.1).

Or. en

Amendment 230

Kaja Kallas

Proposal for a directive

Recital 138

Text proposed by the Commission

(138) In case such interoperability issues arise, the Commission may request a BEREC report which should provide a factual assessment of the market situation at the Union and Member States level. On the basis of the BEREC report and other available evidence and taking into account the effects on the internal market, the Commission should decide whether there is a need for regulatory intervention by national regulatory authorities. If the Commission considers that such regulatory intervention should be considered by National Regulatory Authorities, it may adopt implementing measures specifying the nature and scope of possible regulatory interventions by NRAs, including in particular measures to impose the

Amendment

(138) In case such interoperability issues arise, the Commission may request a BEREC report which should provide a factual assessment of the market situation at the Union and Member States level. On the basis of the BEREC report and other available evidence and taking into account the effects on the internal market, the Commission should decide whether there is a need for regulatory intervention by national regulatory authorities. If the Commission considers that such regulatory intervention should be considered by National Regulatory Authorities, it may adopt implementing measures specifying the nature and scope of possible regulatory interventions by NRAs, including in particular measures to impose the

mandatory use of standards or specifications on all or specific providers. The terms 'European standards' and 'international standards' are defined in Article 2 of Regulation (EU) No 1025/2012.³⁶ National regulatory authorities should assess, in the light of the specific national circumstances, whether any intervention is necessary and justified to ensure end-to-end-connectivity or access to emergency services, and if so, impose proportionate obligations in accordance with the Commission implementing measures.

³⁶ Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council [OJ L 364 of 14.11.2012, p.12]

mandatory use of standards or specifications on all or specific providers. The terms 'European standards' and 'international standards' are defined in Article 2 of Regulation (EU) No 1025/2012.³⁶ National regulatory authorities should assess, in the light of the specific national circumstances, whether any intervention is necessary and justified to ensure end-to-end-connectivity or access to emergency services, and if so, impose proportionate obligations in accordance with the Commission implementing measures. ***National regulatory authorities should not add additional requirements to the Commission implementing measures as it would create barriers to the internal market.***

³⁶ Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council [OJ L 364 of 14.11.2012, p.12]

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 231
Olle Ludvigsson

Proposal for a directive
Recital 139

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria. ***Under special circumstances, national regulatory authorities should be able to impose access to active network components used for service provision on such infrastructure. Such circumstances may occur when access to passive elements would be economically inefficient or physically impracticable. National regulatory authorities should not impose obligations beyond the first concentration or distribution point when access is already provided at a technical level that allows the access seeker the same functionality and ability to control and tailor its services and costs in a similar way as if they would have enjoyed access through symmetrical regulation. In order to safeguard sustainable competitive outcomes for the end users, it must be ensured that the largest possible share of the value chain of any end user product is subject to competition.***

Or. en

Amendment 232

Eva Kaili

Proposal for a directive

Recital 139

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(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

Under special circumstances in line with the objectives of this directive, national regulatory authorities should be able to impose access to active network components used for service provision on such infrastructure. Such circumstances may occur when access to passive elements would be economically inefficient or physically impracticable. In order to safeguard sustainable competitive outcomes for the end users, it must be ensured that the largest possible share of the value chain of any end user product is subject to competition.

Or. en

Amendment 233

Miapetra Kumpula-Natri, Dan Nica, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive

Recital 139

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first

distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

Under special circumstances in line with the objectives of this directive, national regulatory authorities should be able to impose access to active network components used for service provision on such infrastructure. Such circumstances may occur when access to passive elements would be economically inefficient or physically impracticable. In order to safeguard sustainable competitive outcomes for the end users, it must be ensured that the largest possible share of the value chain of any end user product is subject to competition.

Or. en

Justification

Member States must be entitled to empower their NRAs to deal with oligopolistic market structures. The tools that NRAs are given by telecom regulation are mainly focused on situations where Significant Market Power (SMP) is demonstrable. This is an important barrier for regulatory intervention that is not easy for NRAs to overcome. Also oligopolistic structures where the market is dominated by more than one player can be problematic.

Amendment 234

Michel Reimon

on behalf of the Verts/ALE Group

Julia Reda, Marisa Matias, Cornelia Ernst

Proposal for a directive

Recital 139

Text proposed by the Commission

Amendment

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria. ***Under special circumstances in line with the objectives of this directive, national regulatory authorities should be able to impose access to active network components used for service provision on such infrastructure. Such circumstances may occur when access to passive elements would be economically inefficient or physically impracticable. In order to safeguard sustainable competitive outcomes for the end users, it must be ensured that the largest possible share of the value chain of any end user product is subject to competition.***

Or. en

Justification

The tools that NRAs are given by telecom regulation are mainly focused on situations where SMP is demonstrable. This is an important barrier for regulatory intervention that is not easy for NRAs to overcome. Importantly, situations of SMP are not the only threats to competition. Oligopolistic structures where the market is dominated by not one but a reduced number of players are also problematic and increasingly commonplace as a result of market consolidation. Member States must be entitled to empower their NRAs to deal with oligopolistic market structures.

Amendment 235

Kaja Kallas, Marietje Schaake

Proposal for a directive

Recital 139

Text proposed by the Commission

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

Amendment

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. ***However as such obligations can be intrusive, undermine incentives for investments, and have the counterproductive effect of strengthening the position of dominant players, they should only be taken where this is justified and proportionate to achieve long term sustainable competition in the relevant markets.*** The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 236

Kathleen Van Brempt

Proposal for a directive

Recital 139

Text proposed by the Commission

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without

Amendment

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without

prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria. *National regulatory authorities should have the means at hand and be able to intervene, when the circumstances require to do so, in order to ensure the best outcomes for end users at all time, in terms of quality and the availability of competitive options at fair prices;*

Or. en

Amendment 237

Angelika Niebler, Herbert Reul, Markus Pieper

Proposal for a directive Recital 139

Text proposed by the Commission

(139) *In Situationen, in denen Unternehmen keinen Zugang zu tragfähigen Alternativen zu nicht replizierbaren Anlagen bis zum ersten Verteilungspunkt haben, sollten die nationalen Regulierungsbehörden befugt sein, allen Betreibern unabhängig von ihrer jeweiligen Marktmacht Zugangsverpflichtungen aufzuerlegen. Hierbei sollten die nationalen Regulierungsbehörden alle technischen und wirtschaftlichen Hindernisse für eine künftige Replizierung von Netzen berücksichtigen. Die Tatsache, dass es bereits mehr als eine betreffende Infrastruktur gibt, sollte allein nicht unbedingt als Beweis dafür gelten, dass die entsprechenden Anlagen replizierbar sind. Der erste Verteilungspunkt sollte*

Amendment

(139) *Die EU-Kostenreduzierungsrichtlinie 2014/61/EU beinhaltet zusätzliche Elemente einer symmetrischen Regulierung. Darin ist festgelegt, dass die Europäische Kommission dem Europäischen Parlament und dem Rat spätestens am 1. Juli 2018 einen Bericht über die Umsetzung dieser Richtlinie vorlegt. Es sollten zunächst die Ergebnisse des Umsetzungsberichtes abgewartet werden, um auf dieser Grundlage entscheiden zu können, ob zusätzliche Elemente einer symmetrischen Regulierung notwendig sind.*

nach objektiven Kriterien ermittelt werden.

Or. de

Justification

Der Umsetzungsbericht der EU-Kostenreduzierungsrichtlinie 2014/61/EU, der spätestens am 1. Juli 2018 vorgelegt wird, wird eine genaue Analyse von zusätzlichen Elementen einer symmetrischen Regulierung und deren Auswirkungen auf den Markt hervorbringen. Zum jetzigen Zeitpunkt sollte zunächst dieser Bericht abgewartet werden.

Amendment 238

Anne Sander, Françoise Grossetête

Proposal for a directive

Recital 139

Text proposed by the Commission

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to ***the first*** distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The ***first*** distribution point ***should be identified by reference to objective criteria.***

Amendment

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to ***a*** distribution point, national regulatory authorities should be empowered to impose access obligations to all operators, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The distribution point ***shall be determined by the national regulatory authority. In determining the location of this point, national regulatory authorities shall weigh the benefits resulting from infrastructure competition and the need to avoid inefficient replication of network elements.***

Or. en

Amendment 239

José Blanco López, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz

Proposal for a directive
Recital 139

Text proposed by the Commission

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all **operators**, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

Amendment

(139) In situations where undertakings are deprived of access to viable alternatives to non-replicable assets up to the first distribution point, national regulatory authorities should be empowered to impose access obligations to all **owners of wiring and cables or undertakings that have the right to use such wiring and cables**, without prejudice to their respective market power. In this regard, national regulatory authorities should take into consideration all technical and economic barriers to future replication of networks. The mere fact that more than one such infrastructure already exists should not necessarily be interpreted as showing that its assets are replicable. The first distribution point should be identified by reference to objective criteria.

Or. en

Amendment 240

Miapetra Kumpula-Natri, Dan Nica, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive
Recital 139 a (new)

Text proposed by the Commission

Amendment

(139 a) In geographic areas where markets, by virtue of prospective investments or commercial agreements, including co-investment agreements, show or can be expected on a forward-looking basis to qualify as an oligopoly, the promotion of competition and safeguarding of end-user benefits are likely to be compromised. When national regulatory authorities can identify Unilateral Market Power (UMP), it is appropriate for them to be active and

conduct specific monitoring on an ex ante basis and they are more likely to need to impose or maintain ex-ante obligations. This applies a fortiori if a wholesale market is concerned.

Or. en

Justification

Situations of Significant Market Power are not the only threats to competition. Oligopolistic structures where the market is dominated by not one but a reduced number of players are also problematic and increasingly commonplace. It is important that NRAs have means to deal with oligopolistic market structures.

Amendment 241

Michel Reimon

on behalf of the Verts/ALE Group

Julia Reda, Marisa Matias, Cornelia Ernst

Proposal for a directive

Recital 139 a (new)

Text proposed by the Commission

Amendment

(139 a) In geographic areas where markets, by virtue of prospective investments or commercial agreements, including co-investment agreements, show or can be expected on a forward-looking basis to qualify as an oligopoly, the promotion of competition and safeguarding of end-user benefits are likely to be compromised. In such cases, it is appropriate for national regulatory authorities to be vigilant and conduct specific monitoring on an ex ante basis and national regulatory authorities are more likely to need to impose or maintain ex-ante obligations. This applies a fortiori if a wholesale market is concerned.

Or. en

Justification

The tools that NRAs are given by telecom regulation are mainly focused on situations where Significant Market Power (SMP) is demonstrable. This is an important barrier for regulatory intervention that is not easy for NRAs to overcome. Importantly, as BEREC rightly points out,

situations of Significant Market Power are not the only threats to competition. Oligopolistic structures where the market is dominated by not one but a reduced number of players are also problematic and increasingly commonplace as a result of market consolidation. Member States must be entitled to empower their NRAs to deal with oligopolistic market structures.

Amendment 242

Angelika Niebler, Herbert Reul, Markus Pieper

Proposal for a directive

Recital 140

Text proposed by the Commission

Amendment

(140) In Gegenden mit geringerer Bevölkerungsdichte könnte es gerechtfertigt sein, die Zugangsverpflichtungen auf die Verkabelung jenseits des ersten Konzentrationspunkts auszuweiten, sofern nachgewiesen ist, dass eine Replizierung auch jenseits des ersten Konzentrationspunkts möglich wäre; hierbei sollten die Verpflichtungen sich allerdings auf Punkte beziehen, die so nahe wie möglich beim Endnutzer liegen.

entfällt

Or. de

Justification

Der Umsetzungsbericht der EU-Kostenreduzierungsrichtlinie 2014/61/EU, der spätestens am 1. Juli 2018 vorgelegt wird, wird eine genaue Analyse von zusätzlichen Elementen einer symmetrischen Regulierung und deren Auswirkungen auf den Markt hervorbringen. Zum jetzigen Zeitpunkt sollte zunächst dieser Bericht abgewartet werden.

Amendment 243

José Blanco López, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz

Proposal for a directive

Recital 140

Text proposed by the Commission

Amendment

(140) It could be justified to extend access obligations to wiring and cables beyond the first concentration point in areas with lower population density, while confining such obligations to points as

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(140) It could be justified to extend access obligations to wiring and cables beyond the first concentration point, *in particular* in areas with lower population density, while confining such obligations

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close as possible to end-users, where it is demonstrated that replication would also be impossible beyond that first concentration point

to points as close as possible to end-users, where it is demonstrated that replication would also be impossible beyond that first concentration point

Or. en

Amendment 244

Anne Sander, Françoise Grossetête

Proposal for a directive

Recital 140

Text proposed by the Commission

(140) It could be justified to extend access obligations to wiring and cables beyond ***the first*** concentration point ***in areas with lower population density, while confining such obligations to points as close as possible to end-users,*** where it is demonstrated that replication would also be impossible beyond that ***first*** concentration point

Amendment

(140) It could be justified to extend access obligations to wiring and cables beyond ***a*** concentration point ***determined by the national regulation authority, in areas with lower population density*** where it is demonstrated that replication would also be ***economically unviable or physically*** impossible beyond that concentration point

Or. en

Amendment 245

Angelika Niebler, Herbert Reul, Markus Pieper

Proposal for a directive

Recital 141

Text proposed by the Commission

(141) In solchen Fällen kann es zum Zwecke der Einhaltung des Verhältnismäßigkeitsgrundsatzes angemessen sein, dass die nationalen Regulierungsbehörden bestimmte Kategorien von Eigentümern und/oder Unternehmen von Verpflichtungen, die über den ersten Verteilungspunkt hinausgehen, dann ausnehmen, wenn eine Zugangsverpflichtung, die sich nicht auf eine bestehende beträchtliche Marktmacht stützt, dem

Amendment

entfällt

Geschäftsszenario des Betroffenen für die unlängst ausgebauten Netzbestandteile schaden würde. Strukturell voneinander getrennte Unternehmen sollten solchen Zugangsverpflichtungen nicht unterliegen, wenn sie auf gewerblicher Grundlage einen echten alternativen Zugang zu einem Netz mit sehr hoher Kapazität anbieten.

Or. de

Justification

Der Umsetzungsbericht der EU-Kostenreduzierungsrichtlinie 2014/61/EU, der spätestens am 1. Juli 2018 vorgelegt wird, wird eine genaue Analyse von zusätzlichen Elementen einer symmetrischen Regulierung und deren Auswirkungen auf den Markt hervorbringen. Zum jetzigen Zeitpunkt sollte zunächst dieser Bericht abgewartet werden.

Amendment 246

José Blanco López, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz

Proposal for a directive

Recital 141

Text proposed by the Commission

Amendment

(141) In such cases, in order to comply with the principle of proportionality, it can be appropriate for national regulatory authorities to exclude certain categories of owners or undertakings, or both, from obligations going beyond the first distribution point, on the grounds that an access obligation not based on significant market power would risk compromising their business case for recently deployed network elements. Structurally separated undertakings should not be subject to such access obligations if they offer an effective alternative access on a commercial basis to a very high capacity network.

deleted

Or. en

Amendment 247

Proposal for a directive
Recital 142

Text proposed by the Commission

(142) Sharing of passive **or active** infrastructure used in the provision of wireless electronic communications services, **or the joint roll-out of such infrastructures**, in compliance with competition law principles can be particularly useful to maximise very high capacity connectivity throughout the Union, especially in less dense areas where replication is impracticable and end-users risk being deprived of such connectivity. National regulatory authorities should, exceptionally, be enabled to impose such sharing **or joint roll-out**, or localised roaming access, in compliance with Union law, if they demonstrate the benefits of such sharing or access in terms of overcoming very significant barriers to replication and of addressing otherwise severe restrictions on end-user choice or quality of service, or both, or on territorial coverage, and taking into account several elements, including in particular the need to maintain infrastructure roll-out incentives.

Amendment

(142) Sharing of passive infrastructure used in the provision of wireless electronic communications services, in compliance with competition law principles can be particularly useful to maximise very high capacity connectivity throughout the Union, especially in less dense areas where replication is impracticable and end-users risk being deprived of such connectivity. National regulatory authorities should, exceptionally, be enabled to impose such sharing, or localised roaming access, in compliance with Union law, if they demonstrate the benefits of such sharing or access in terms of overcoming very significant barriers to replication and of addressing otherwise severe restrictions on end-user choice or quality of service, or both, or on territorial coverage, and taking into account several elements, including in particular the need to maintain infrastructure roll-out incentives. ***Access to wiring and cables inside buildings remains an important obstacle to competition. It is important to ensure that any interested third party receives access to information retained by owners or users of such in-building infrastructure and that all reasonable access requests be met.***

Or. en

Justification

Any-to-any connectivity is an important requirement that should be enforced. However, it is conceptually a deviation from the basic principle of regulation of electronic communications services which is based on SMP and competition law principles. Thus, any-to-any obligations should be imposed in exceptional circumstances where it is duly justified and when SMP-based regulation is not present or effective. Access to wiring and cables inside buildings is such an exception.

Amendment 248
Lieve Wierinck, Hilde Vautmans

Proposal for a directive
Recital 143

Text proposed by the Commission

(143) While it is appropriate in some circumstances for a national regulatory authority to impose obligations on operators that do not have significant market power in order to achieve goals such as end-to-end connectivity or interoperability of services, it is however necessary to ensure that such obligations are imposed in conformity with the regulatory framework and, in particular, its notification procedures.

Amendment

(143) While it is appropriate in some circumstances for a national regulatory authority to impose obligations on operators that do not have significant market power in order to achieve goals such as end-to-end connectivity or interoperability of services, it is however necessary to ensure that such obligations are imposed in conformity with the regulatory framework and, in particular, its notification procedures. ***Such obligations must only be imposed where justified in order to secure the objectives of this Directive, and where they are objectively justified, transparent, proportionate and non-discriminatory for the purpose of promoting efficiency, sustainable competition, efficient investment and innovation, and giving the maximum benefit to end-users, and imposed in conformity with the relevant notification procedures.***

Or. en

Amendment 249
Michał Boni

Proposal for a directive
Recital 143

Text proposed by the Commission

(143) While it is appropriate in some circumstances for a national regulatory authority to impose obligations on operators that do not have significant market power in order to achieve goals such as end-to-end connectivity or interoperability of services, it is however necessary to ensure that such obligations

Amendment

(143) While it is appropriate in some circumstances for a national regulatory authority to impose obligations on operators that do not have significant market power in order to achieve goals such as end-to-end connectivity or interoperability of services, it is however necessary to ensure that such obligations

are imposed in conformity with the regulatory framework and, in particular, its notification procedures.

are imposed in conformity with the regulatory framework and, in particular, its notification procedures ***and in instances where SMP obligations are not or unlikely to be effective.***

Or. en

Justification

Any-to-any obligations should be imposed in exceptional circumstances where it is duly justified and when SMP-based regulation is not present or effective.

Amendment 250

Kaja Kallas, Marietje Schaake

Proposal for a directive

Recital 147

Text proposed by the Commission

(147) Two or more undertakings can be found to enjoy a joint dominant position not only where there exist structural or other links between them but also where the structure of the relevant market is conducive to coordinated effects, that is, it encourages parallel or aligned anti-competitive behaviour on the market.

Amendment

(147) Two or more undertakings can be found to enjoy a joint dominant position not only where there exist structural or other links between them but also where the structure of the relevant market is conducive to coordinated effects, that is, it encourages parallel or aligned anti-competitive behaviour on the market. ***In light of the increased convergence and consolidation in electronic communications markets, including in some cases content-related markets, with increasing markets being composed of oligopolies or duopolies, that could lead to the ineffectiveness of the current SMP framework, there is a need to consider whether two or more undertakings can also be found to have a position equivalent to having significant market power where they might significantly impede effective competition. The assessment should take into account the relevant markets including but not limited to the market shares of other market participants, the market power of an undertaking on closely related markets, barriers to entry, market concentration,***

product differentiation, capacity constraints and switching costs.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 251

Kaja Kallas, Marietje Schaake

Proposal for a directive

Recital 155

Text proposed by the Commission

(155) For national regulatory authorities ***the starting point for*** the identification of wholesale markets susceptible to ex ante regulation ***is the*** analysis ***of corresponding*** retail ***markets***. The analysis of effective competition at the retail and at the wholesale level is conducted from a forward-looking perspective over a given time horizon, and is guided by competition law, including the relevant case-law of the Court of Justice, as appropriate. If it is concluded that a retail markets would be effectively competitive in the absence of ex ante wholesale regulation on the corresponding relevant market(s), this ***should*** lead the national regulatory authority to conclude that regulation is no longer needed at the relevant wholesale level.

Amendment

(155) For national regulatory authorities ***to facilitate*** the identification of wholesale markets susceptible to ex ante regulation ***it might be appropriate to analyse the relevant retail markets. It is however not necessary to formally define the retail markets when the focus of the market analysis procedure is on a wholesale market as an wholesale market might correspond to more than one*** retail ***market***. The analysis of effective competition at the retail and at the wholesale level is conducted from a forward-looking perspective over a given time horizon, and is guided by competition law, including the relevant case-law of the Court of Justice, as appropriate. If it is concluded that a retail markets would be effectively competitive in the absence of ex ante wholesale regulation on the corresponding relevant market(s), this ***may*** lead the national regulatory authority to conclude that regulation is no longer needed at the relevant wholesale level.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 252
Kaja Kallas

Proposal for a directive
Recital 157

Text proposed by the Commission

(157) When assessing wholesale regulation to solve problems at the retail level, national regulatory authorities should take into account that several wholesale markets can provide wholesale upstream inputs for a particular retail market, and conversely, one wholesale market can provide wholesale upstream inputs for a variety of retail markets. Furthermore, competitive dynamics in a particular market can be influenced by markets that are contiguous but not in a vertical relationship, such as can be the case between certain fixed and mobile markets. National regulatory authorities should conduct that assessment for each individual wholesale market considered for regulation, *starting with* remedies for access to civil infrastructure, *as* such remedies *are* usually conducive to more sustainable competition including infrastructure competition, and thereafter analysing any wholesale markets considered susceptible to ex ante regulation in order of their likely suitability to address identified competition problems at retail level. When deciding on the specific remedy to be imposed, national regulatory authorities should assess its technical feasibility and carry out a cost-benefit analysis, having regard to its degree of suitability to address the identified competition problems at retail level. National regulatory authorities should consider the consequences of imposing any specific remedy which, if feasible only on certain network topologies, could constitute a disincentive for the deployment of very high capacity networks in the interest of end-users. At each stage of the assessment, before the national

Amendment

(157) When assessing wholesale regulation to solve problems at the retail level, national regulatory authorities should take into account that several wholesale markets can provide wholesale upstream inputs for a particular retail market, and conversely, one wholesale market can provide wholesale upstream inputs for a variety of retail markets. Furthermore, competitive dynamics in a particular market can be influenced by markets that are contiguous but not in a vertical relationship, such as can be the case between certain fixed and mobile markets. National regulatory authorities should conduct that assessment for each individual wholesale market considered for regulation, *assessing whether* remedies for access to civil infrastructure, such remedies *being* usually conducive to more sustainable competition including infrastructure competition *but at the same time subject to availability or physical constraints, or remedies for access to associated facilities, are the most appropriate* and thereafter analysing any wholesale markets considered susceptible to ex ante regulation in order of their likely suitability to address identified competition problems at retail level. When deciding on the specific remedy to be imposed, national regulatory authorities should assess its technical feasibility and carry out a cost-benefit analysis, having regard to its degree of suitability to address the identified competition problems at retail level, *and enabling sustainable competition based on differentiation and technological neutrality*. National regulatory authorities should consider the consequences of imposing any specific remedy which, if

regulatory authority determines whether any additional remedy should be imposed on the significant market power operator, it should seek to determine whether the **retail market** concerned would be effectively competitive in the light of any relevant commercial arrangements or other wholesale market circumstances, including other types of regulation already in force, such as for example general access obligations to non-replicable assets or obligations imposed pursuant to Directive 2014/61/EU, and of any regulation already deemed appropriate by the national regulatory authority for an operator with significant market power. Even if such differences do not result in the definition of distinct geographic markets, they may justify differentiation in the appropriate remedies imposed in the light of the differing intensity of competitive constraints.

feasible only on certain network topologies, could constitute a disincentive for the deployment of very high capacity networks in the interest of end-users. ***In addition, national regulatory authorities should provide incentives through the remedies imposed, and where it is possible before the roll-out of infrastructure, for the development of flexible and open network architecture, which would reduce eventually the burden and complexity of remedies imposed at a later stage.*** At each stage of the assessment, before the national regulatory authority determines whether any additional remedy should be imposed on the significant market power operator, it should seek to determine whether the **relevant markets** concerned would be effectively competitive in the light of any relevant commercial arrangements or other wholesale market circumstances, including other types of regulation already in force, such as for example general access obligations to non-replicable assets or obligations imposed pursuant to Directive 2014/61/EU, and of any regulation already deemed appropriate by the national regulatory authority for an operator with significant market power. Even if such differences do not result in the definition of distinct geographic markets, they may justify differentiation in the appropriate remedies imposed in the light of the differing intensity of competitive constraints.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 253

José Blanco López, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz

Proposal for a directive

Recital 164

(164) When assessing the proportionality of the obligations and conditions to be imposed, national regulatory authorities should take into account the different competitive conditions existing in the different areas within their Member States having regard in particular to the results of the geographical survey conducted in accordance with this Directive.

(164) When assessing the proportionality of the obligations and conditions to be imposed, national regulatory authorities should take into account the different competitive conditions existing in the different areas within their Member States having regard in particular to the results of the geographical survey conducted in accordance with this Directive. ***National regulatory authorities shall ensure that the obligations they impose on operators designated with significant market power are effective. National regulatory authorities may set in advance penalty schemes to be applied in the event of a breach of those obligations.***

Or. en

Amendment 254

Werner Langen, Sabine Verheyen, Norbert Lins, Markus Pieper

Proposal for a directive

Recital 164

(164) Die nationalen Regulierungsbehörden sollten bei der Prüfung der Verhältnismäßigkeit der aufzuerlegenden Verpflichtungen und Bedingungen die unterschiedlichen Wettbewerbsverhältnisse in den einzelnen Gebieten der betreffenden Mitgliedstaaten berücksichtigen und dabei insbesondere den Ergebnissen der nach dieser Richtlinie durchgeführten geografischen Erhebung Rechnung tragen.

(164) Die nationalen Regulierungsbehörden sollten bei der Prüfung der Verhältnismäßigkeit der aufzuerlegenden Verpflichtungen und Bedingungen die unterschiedlichen Wettbewerbsverhältnisse in den einzelnen Gebieten der betreffenden Mitgliedstaaten berücksichtigen und dabei insbesondere den Ergebnissen der nach dieser Richtlinie durchgeführten geografischen Erhebung Rechnung tragen. ***Um zu gewährleisten, dass Verpflichtungen von Betreibern mit beträchtlicher Marktmacht tatsächlich eingehalten werden, können die nationalen Regulierungsbehörden für den Fall einer Zuwiderhandlung Sanktionen vorsehen.***

Or. de

Amendment 255

Anna Záborská, Ivan Štefanec

Proposal for a directive

Recital 172

Text proposed by the Commission

Amendment

(172) Civil engineering assets that can host an electronic communications network are crucial for the successful roll-out of new very high capacity networks because of the high cost of duplicating them, and the significant savings that can be made when they can be reused. Therefore, in addition to the rules on physical infrastructure laid down in Directive 2014/61/EU, a specific remedy is necessary in those circumstances where civil engineering assets are owned by an operator designated with significant market power. Where civil engineering assets exist and are reusable, the positive effect of achieving effective access to them on the roll-out of competing infrastructure is very high, and it is therefore necessary to ensure that access to such assets can be used as a self-standing remedy for the improvement of competitive and deployment dynamics in any downstream market, to be considered before assessing the need to impose any other potential remedies, and not just as an ancillary remedy to other wholesale products or services or as a remedy limited to undertakings availing of such other wholesale products or services. National regulatory authorities should value reusable legacy civil engineering assets on the basis of the regulatory accounting value net of the accumulated depreciation at the time of calculation, indexed by an appropriate price index, such as the retail price index, and excluding those assets which are fully depreciated, over a period of not less than 40 years, but still in use.

deleted

Amendment 256
Kaja Kallas

Proposal for a directive
Recital 172

Text proposed by the Commission

(172) Civil engineering assets that can host an electronic communications network are crucial for the successful roll-out of new very high capacity networks because of the high cost of duplicating them, and the significant savings that can be made when they can be reused. Therefore, in addition to the rules on physical infrastructure laid down in Directive 2014/61/EU, a specific remedy is necessary in those circumstances where civil engineering assets are owned by an operator designated with significant market power. Where civil engineering assets exist and are reusable, the positive effect of achieving effective access to them on the roll-out of competing infrastructure is very high, and it is therefore necessary to ensure that access to such assets can be used as a self-standing remedy for the improvement of competitive and deployment dynamics in any downstream market, to be considered before assessing the need to impose any other potential remedies, and not just as an ancillary remedy to other wholesale products or services or as a remedy limited to undertakings availing of such other wholesale products or services. National regulatory authorities should value reusable legacy civil engineering assets on the basis of the regulatory accounting value net of the accumulated depreciation at the time of calculation, indexed by an appropriate price index, such as the retail price index, and excluding those assets which are fully depreciated, over a period of not less than 40 years, but still in use.

Amendment

(172) Civil engineering assets that can host an electronic communications network are crucial for the successful roll-out of new very high capacity networks because of the high cost of duplicating them, and the significant savings that can be made when they can be reused. Therefore, in addition to the rules on physical infrastructure laid down in Directive 2014/61/EU, a specific remedy is necessary in those circumstances where civil engineering assets are owned by an operator designated with significant market power. Where civil engineering assets exist and are reusable, the positive effect of achieving effective access to them on the roll-out of competing infrastructure is very high, and it is therefore necessary to ensure that access to such assets can be used as a self-standing remedy for the improvement of competitive and deployment dynamics in any downstream market, to be considered before assessing the need to impose any other potential remedies, and not just as an ancillary remedy to other wholesale products or services or as a remedy limited to undertakings availing of such other wholesale products or services. ***However, access to such assets can be limited by physical constraints or limited availability, therefore equivalent means of access such as access to dark fiber should also be considered.*** National regulatory authorities should value reusable legacy civil engineering assets on the basis of the regulatory accounting value net of the accumulated depreciation at the time of calculation, indexed by an appropriate price index, such as the retail price index, and excluding those assets which are fully

depreciated, over a period of not less than 40 years, but still in use.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 257

Herbert Reul, Markus Pieper, Angelika Niebler

Proposal for a directive

Recital 172

Text proposed by the Commission

(172) Bauliche Anlagen, in denen elektronische Kommunikationsnetze ausgebaut werden können, sind wegen der hohen Kosten einer Replizierung und der erheblichen Einsparungen bei ihrer Wiederverwendung von zentraler Bedeutung für einen erfolgreichen Ausbau neuer Netze mit sehr hoher Kapazität. Deshalb ist zusätzlich zu den Vorschriften über physische Infrastrukturen in der Richtlinie 2014/61/EU eine besondere Abhilfemaßnahme erforderlich für Fälle, in denen ein Betreiber mit beträchtlicher Marktmacht der Eigentümer solcher baulichen Anlagen ist. Sind bauliche Anlagen vorhanden und wiederverwendbar, so ist es von sehr großem Nutzen, wenn für den Ausbau konkurrierender Infrastrukturen ein tatsächlicher Zugang besteht, weshalb sichergestellt werden muss, dass der Zugang zu solchen Anlagen als eigenständige Abhilfemaßnahme zur Verbesserung der Wettbewerbs- und Ausbaudynamik auf allen nachgelagerten Märkten eingesetzt werden kann und vor der Prüfung der Erforderlichkeit etwaiger anderer Abhilfemaßnahmen zuerst zu erwägen ist, und zwar nicht nur als zusätzliche Abhilfemaßnahme neben anderen Vorleistungsprodukten oder -

Amendment

(172) Bauliche Anlagen, in denen elektronische Kommunikationsnetze ausgebaut werden können, **oder passive Infrastrukturen, wie beispielsweise inaktive Leitungen**, sind wegen der hohen Kosten einer Replizierung und der erheblichen Einsparungen bei ihrer Wiederverwendung von zentraler Bedeutung für einen erfolgreichen Ausbau neuer Netze mit sehr hoher Kapazität. Deshalb ist zusätzlich zu den Vorschriften über physische Infrastrukturen in der Richtlinie 2014/61/EU eine besondere Abhilfemaßnahme erforderlich für Fälle, in denen ein Betreiber mit beträchtlicher Marktmacht der Eigentümer solcher baulichen Anlagen ist. Sind bauliche Anlagen **oder passive Infrastrukturen** vorhanden und wiederverwendbar, so ist es von sehr großem Nutzen, wenn für den Ausbau konkurrierender Infrastrukturen ein tatsächlicher Zugang besteht, weshalb sichergestellt werden muss, dass der Zugang zu solchen Anlagen als eigenständige Abhilfemaßnahme zur Verbesserung der Wettbewerbs- und Ausbaudynamik auf allen nachgelagerten Märkten eingesetzt werden kann und vor der Prüfung der Erforderlichkeit etwaiger anderer Abhilfemaßnahmen zuerst zu erwägen ist, und zwar nicht nur als

diensten oder als Abhilfemaßnahme, die auf Unternehmen beschränkt ist, die sich solcher Vorleistungsprodukte oder -dienste bedienen. Die nationalen Regulierungsbehörden sollten wiederverwendbare bauliche Altanlagen auf der Grundlage des regulatorischen Buchwerts ohne kumulierte Abschreibung zum Zeitpunkt der Berechnung mit einem geeigneten Preisindex, beispielsweise dem Einzelhandelspreisindex, und ausschließlich jener Anlagen bewerten, die über einen Zeitraum von mindestens 40 Jahren vollständig abgeschrieben sind, aber weiter genutzt werden.

zusätzliche Abhilfemaßnahme neben anderen Vorleistungsprodukten oder -diensten oder als Abhilfemaßnahme, die auf Unternehmen beschränkt ist, die sich solcher Vorleistungsprodukte oder -dienste bedienen. Die nationalen Regulierungsbehörden sollten wiederverwendbare bauliche Altanlagen auf der Grundlage des regulatorischen Buchwerts ohne kumulierte Abschreibung zum Zeitpunkt der Berechnung mit einem geeigneten Preisindex, beispielsweise dem Einzelhandelspreisindex, und ausschließlich jener Anlagen bewerten, die über einen Zeitraum von mindestens 40 Jahren vollständig abgeschrieben sind, aber weiter genutzt werden.

Or. de

Amendment 258

Werner Langen, Norbert Lins, Sabine Verheyen

Proposal for a directive

Recital 173

Text proposed by the Commission

(173) Bei der Festlegung von Verpflichtungen bezüglich des Zugangs zu neuen und verbesserten Infrastrukturen sollten die nationalen Regulierungsbehörden dafür sorgen, dass die Zugangsbedingungen die der Investitionsentscheidung zugrunde liegenden Umstände widerspiegeln und u. a. die Aufbaukosten, das voraussichtliche Maß der Inanspruchnahme der neuen Produkte und Dienstleistungen und die voraussichtlichen Endkunden-Preisniveaus berücksichtigen. Damit die Investoren Planungssicherheit haben, sollten die nationalen Regulierungsbehörden darüber hinaus befugt sein, gegebenenfalls die Bedingungen für den Zugang festzulegen, die während angemessener Überprüfungszeiträume kohärent bleiben. Werden Maßnahmen zur Preissteuerung als angemessen angesehen, so können diese

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Amendment

(173) Bei der Festlegung von Verpflichtungen bezüglich des Zugangs zu neuen und verbesserten Infrastrukturen sollten die nationalen Regulierungsbehörden dafür sorgen, dass die Zugangsbedingungen die der Investitionsentscheidung zugrunde liegenden Umstände widerspiegeln und u. a. die Aufbaukosten, das voraussichtliche Maß der Inanspruchnahme der neuen Produkte und Dienstleistungen und die voraussichtlichen Endkunden-Preisniveaus berücksichtigen. Damit die Investoren Planungssicherheit haben, sollten die nationalen Regulierungsbehörden darüber hinaus befugt sein, gegebenenfalls die Bedingungen für den Zugang festzulegen, die während angemessener Überprüfungszeiträume kohärent bleiben. Werden Maßnahmen zur Preissteuerung als angemessen angesehen, so können diese

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Bedingungen von Umfang oder Geltungsdauer des Vertrags abhängige Preisfestsetzungsvereinbarungen im Einklang mit dem Unionsrecht beinhalten, sofern diese Vereinbarungen keine diskriminierenden Auswirkungen haben. Eventuelle Zugangsbedingungen sollten der Notwendigkeit Rechnung tragen, einen wirksamen Wettbewerb bei den Diensten für Verbraucher und Unternehmen aufrecht zu erhalten.

Bedingungen von Umfang oder Geltungsdauer des Vertrags abhängige Preisfestsetzungsvereinbarungen im Einklang mit dem Unionsrecht beinhalten, sofern diese Vereinbarungen keine diskriminierenden Auswirkungen haben. Eventuelle Zugangsbedingungen sollten der Notwendigkeit Rechnung tragen, einen wirksamen Wettbewerb bei den Diensten für Verbraucher und Unternehmen aufrecht zu erhalten. ***Jede Verpflichtung ist gesondert zu beurteilen; es besteht, bis auf eine Ausnahme, keine Hierarchie zwischen den Verpflichtungen, welche nationale Regulierungsbehörden auferlegen können. Das Prinzip der Verhältnismäßigkeit verlangt jedoch, dass eine Verpflichtung in Bezug auf den Zugang zu bestimmten Netzeinrichtungen und deren Nutzung nur auferlegt werden soll, falls eine Zugangsverpflichtung zu baulichen Anlagen nicht oder wahrscheinlich nicht effektiv eingesetzt wird.***

Or. de

Amendment 259
Michał Boni

Proposal for a directive
Recital 173

Text proposed by the Commission

(173) National regulatory authorities should, when imposing obligations for access to new and enhanced infrastructures, ensure that access conditions reflect the circumstances underlying the investment decision, taking into account, inter alia, the roll-out costs, the expected rate of take up of the new products and services and the expected retail price levels. Moreover, in order to provide planning certainty to investors, national regulatory authorities should be able to set, if applicable, terms and conditions for access which are consistent

Amendment

(173) National regulatory authorities should, when imposing obligations for access to new and enhanced infrastructures, ensure that access conditions reflect the circumstances underlying the investment decision, taking into account, inter alia, the roll-out costs, the expected rate of take up of the new products and services and the expected retail price levels. Moreover, in order to provide planning certainty to investors, national regulatory authorities should be able to set, if applicable, terms and conditions for access which are consistent

over appropriate review periods. In the event that price controls are deemed appropriate, such terms and conditions can include pricing arrangements which depend on volumes or length of contract in accordance with Union law and provided they have no discriminatory effect. Any access conditions imposed should respect the need to preserve effective competition in services to consumers and businesses.

over appropriate review periods. In the event that price controls are deemed appropriate, such terms and conditions can include pricing arrangements which depend on volumes or length of contract in accordance with Union law and provided they have no discriminatory effect. Any access conditions imposed should respect the need to preserve effective competition in services to consumers and businesses.

Each obligation shall be assessed separately and there is no hierarchy between the various obligations which national regulatory authorities can impose with one exception. In compliance with the principle of proportionality, the obligation to provide access to and use of specific network facilities shall only be imposed if the obligation to provide access to civil engineering is not or unlikely to be effective.

Or. en

Justification

It should be clarified in Recital 173 that the obligation to provide access to and use of specific network facilities shall only be imposed if the obligation to provide access to civil engineering is not or unlikely to be effective.

Amendment 260

David Borrelli, Dario Tamburrano

Proposal for a directive

Recital 175

Text proposed by the Commission

Amendment

(175) In geographic areas where two access networks can be expected on a forward-looking basis, end-users are more likely to benefit from improvements in network quality, by virtue of infrastructure-based competition, than in areas where only one network persists. The adequacy of competition on other parameters, such as price and choice, is likely to depend on the national and local competitive circumstances. Where at least

deleted

one of the network operators offers wholesale access to any interested undertaking on reasonable commercial terms permitting sustainable competition on the retail market, national regulatory authorities are unlikely to need to impose or maintain SMP-based wholesale access obligations, beyond access to civil infrastructure, therefore reliance can be placed on the application of general competition rules. This applies a fortiori if both network operators offer reasonable commercial wholesale access. In both such cases, it may be more appropriate for national regulatory authorities to rely on specific monitoring on an ex post basis. Where on a forward-looking basis, three access network operators are present or are expected to be present and to sustainably compete in the same retail and wholesale markets (e.g. as can be the case for mobile, and as can occur in some geographic areas for fixed-line networks, especially where there is effective access to civil infrastructure and/or co-investment, such that three or more operators have effective control over the necessary access network assets to meet retail demand), national regulatory authorities will be less likely to identify an operator as having SMP, unless they make a finding of collective dominance, or if each of the undertakings in question has significant market power in distinct wholesale markets, such as in the case of voice call termination markets. The application of general competition rules in such markets characterised by sustainable and effective infrastructure-based competition should be sufficient.

Or. en

Justification

The text does not take into account BEREC findings on the problems related to markets qualified as ‘tight oligopolies’. BEREC’s conclusion that “two is not enough” is not reflected in this recital.

Amendment 261

José Blanco López, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz

Proposal for a directive

Recital 175

Text proposed by the Commission

Amendment

(175) In geographic areas where two access networks can be expected on a forward-looking basis, end-users are more likely to benefit from improvements in network quality, by virtue of infrastructure-based competition, than in areas where only one network persists. The adequacy of competition on other parameters, such as price and choice, is likely to depend on the national and local competitive circumstances. Where at least one of the network operators offers wholesale access to any interested undertaking on reasonable commercial terms permitting sustainable competition on the retail market, national regulatory authorities are unlikely to need to impose or maintain SMP-based wholesale access obligations, beyond access to civil infrastructure, therefore reliance can be placed on the application of general competition rules. This applies a fortiori if both network operators offer reasonable commercial wholesale access. In both such cases, it may be more appropriate for national regulatory authorities to rely on specific monitoring on an ex post basis. Where on a forward-looking basis, three access network operators are present or are expected to be present and to sustainably compete in the same retail and wholesale markets (e.g. as can be the case for mobile, and as can occur in some geographic areas for fixed-line networks, especially where there is effective access to civil infrastructure and/or co-investment, such that three or more operators have effective control over the necessary access network assets to meet retail demand), national regulatory authorities will be less likely to identify an operator as having SMP, unless they make a finding of collective dominance,

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or if each of the undertakings in question has significant market power in distinct wholesale markets, such as in the case of voice call termination markets. The application of general competition rules in such markets characterised by sustainable and effective infrastructure-based competition should be sufficient.

Or. en

Amendment 262

Miapetra Kumpula-Natri, Dan Nica, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Jeppe Kofod

**Proposal for a directive
Recital 175**

Text proposed by the Commission

Amendment

(175) In geographic areas where two access networks can be expected on a forward-looking basis, end-users are more likely to benefit from improvements in network quality, by virtue of infrastructure-based competition, than in areas where only one network persists. The adequacy of competition on other parameters, such as price and choice, is likely to depend on the national and local competitive circumstances. Where at least one of the network operators offers wholesale access to any interested undertaking on reasonable commercial terms permitting sustainable competition on the retail market, national regulatory authorities are unlikely to need to impose or maintain SMP-based wholesale access obligations, beyond access to civil infrastructure, therefore reliance can be placed on the application of general competition rules. This applies a fortiori if both network operators offer reasonable commercial wholesale access. In both such cases, it may be more appropriate for national regulatory authorities to rely on specific monitoring on an ex post basis. Where on a forward-looking basis, three access network operators are present or

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are expected to be present and to sustainably compete in the same retail and wholesale markets (e.g. as can be the case for mobile, and as can occur in some geographic areas for fixed-line networks, especially where there is effective access to civil infrastructure and/or co-investment, such that three or more operators have effective control over the necessary access network assets to meet retail demand), national regulatory authorities will be less likely to identify an operator as having SMP, unless they make a finding of collective dominance, or if each of the undertakings in question has significant market power in distinct wholesale markets, such as in the case of voice call termination markets. The application of general competition rules in such markets characterised by sustainable and effective infrastructure-based competition should be sufficient.

Or. en

Justification

The recital ignores the importance of effective access regulation in ensuring competitive outcomes in both monopolistic and oligopolistic markets. When retail competition is effective, it is often based on regulated wholesale access, especially SMP. Technical and economic nature of access is often critical in determining if it truly contributes to the goal of achieving effective competition and as such we should not make a mistake to remove regulation only because the retail market is competitive. Also, BEREC points out the problems of 'tight oligopolies' in EU markets and that existing regulatory tools are not able to tackle them.

Amendment 263

Michel Reimon

on behalf of the Verts/ALE Group

Julia Reda, Marisa Matias, Cornelia Ernst

Proposal for a directive

Recital 175

Text proposed by the Commission

Amendment

(175) In geographic areas where two access networks can be expected on a forward-looking basis, end-users are more likely to benefit from improvements in

deleted

network quality, by virtue of infrastructure-based competition, than in areas where only one network persists. The adequacy of competition on other parameters, such as price and choice, is likely to depend on the national and local competitive circumstances. Where at least one of the network operators offers wholesale access to any interested undertaking on reasonable commercial terms permitting sustainable competition on the retail market, national regulatory authorities are unlikely to need to impose or maintain SMP-based wholesale access obligations, beyond access to civil infrastructure, therefore reliance can be placed on the application of general competition rules. This applies a fortiori if both network operators offer reasonable commercial wholesale access. In both such cases, it may be more appropriate for national regulatory authorities to rely on specific monitoring on an ex post basis. Where on a forward-looking basis, three access network operators are present or are expected to be present and to sustainably compete in the same retail and wholesale markets (e.g. as can be the case for mobile, and as can occur in some geographic areas for fixed-line networks, especially where there is effective access to civil infrastructure and/or co-investment, such that three or more operators have effective control over the necessary access network assets to meet retail demand), national regulatory authorities will be less likely to identify an operator as having SMP, unless they make a finding of collective dominance, or if each of the undertakings in question has significant market power in distinct wholesale markets, such as in the case of voice call termination markets. The application of general competition rules in such markets characterised by sustainable and effective infrastructure-based competition should be sufficient.

Or. en

Justification

The recital presents a distorted and inadequate narrative of the evolution and status of different telecom market outcomes in the EU and should be deleted. It ignores the crucial role effective access regulation has in ensuring competitive outcomes in both monopolistic and oligopolistic (2 or more strong players) markets. When retail competition is effective it is often based on regulated wholesale access, especially SMP. It would therefore be mistaken to remove this regulation just because the retail market is competitive. The text does not take into account BEREC findings on the problems related to markets qualified as ‘tight oligopolies’ and the inadequacy of existing regulatory tools to tackle them. BEREC’s conclusion that “two is not enough” isn’t reflected by this recital. Markets like Belgium and the Netherlands, already with oligopolistic structures, would be left as they are today.

Amendment 264
Fulvio Martusciello

Proposal for a directive
Recital 175

Text proposed by the Commission

Amendment

<p>(175) In geographic areas where two access networks can be expected on a forward-looking basis, end-users are more likely to benefit from improvements in network quality, by virtue of infrastructure-based competition, than in areas where only one network persists. The adequacy of competition on other parameters, such as price and choice, is likely to depend on the national and local competitive circumstances. Where at least one of the network operators offers wholesale access to any interested undertaking on reasonable commercial terms permitting sustainable competition on the retail market, national regulatory authorities are unlikely to need to impose or maintain SMP-based wholesale access obligations, beyond access to civil infrastructure, therefore reliance can be placed on the application of general competition rules. This applies a fortiori if both network operators offer reasonable commercial wholesale access. In both such cases, it may be more appropriate for national regulatory authorities to rely on specific monitoring on an ex post basis. Where on a forward-looking basis, three</p>	<p>deleted</p>
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access network operators are present or are expected to be present and to sustainably compete in the same retail and wholesale markets (e.g. as can be the case for mobile, and as can occur in some geographic areas for fixed-line networks, especially where there is effective access to civil infrastructure and/or co-investment, such that three or more operators have effective control over the necessary access network assets to meet retail demand), national regulatory authorities will be less likely to identify an operator as having SMP, unless they make a finding of collective dominance, or if each of the undertakings in question has significant market power in distinct wholesale markets, such as in the case of voice call termination markets. The application of general competition rules in such markets characterised by sustainable and effective infrastructure-based competition should be sufficient.

Or. en

Amendment 265

Kaja Kallas

Proposal for a directive

Recital 175

Text proposed by the Commission

(175) In geographic areas where two access networks can be expected on a forward-looking basis, end-users are more likely to benefit from improvements in network quality, by virtue of infrastructure-based competition, than in areas where only one network persists. The adequacy of competition on other parameters, such as price and choice, is likely to depend on the national and local competitive circumstances. Where at least one of the network operators offers wholesale access to any interested undertaking on reasonable commercial terms permitting sustainable competition on the **retail market**, national

Amendment

(175) In geographic areas where two access networks can be expected on a forward-looking basis, end-users are more likely to benefit from improvements in network quality, by virtue of infrastructure-based competition, than in areas where only one network persists. The adequacy of competition on other parameters, such as price and choice, is likely to depend on the national and local competitive circumstances. Where at least one of the network operators offers wholesale access to any interested undertaking on reasonable commercial terms permitting **long term** sustainable competition on the **relevant**

regulatory authorities are unlikely to need to impose or maintain SMP-based wholesale access obligations, beyond access to civil infrastructure, therefore reliance can be placed on the application of general competition rules. This applies a fortiori if both network operators offer reasonable commercial wholesale access. In both such cases, it may be more appropriate for national regulatory authorities to rely on specific monitoring on an ex post basis. Where on a forward-looking basis, three access network operators are present or are expected to be present and to sustainably compete in the same retail and wholesale markets (e.g. as can be the case for mobile, and as can occur in some geographic areas for fixed-line networks, especially where there is effective access to civil infrastructure and/or co-investment, such that three or more operators have effective control over the necessary access network assets to meet retail demand), national regulatory authorities will be less likely to identify an operator as having SMP, unless they make a finding of collective dominance, or if each of the undertakings in question has significant market power in distinct wholesale markets, such as in the case of voice call termination markets. The application of general competition rules in such markets characterised by sustainable and effective infrastructure-based competition should be sufficient.

markets, national regulatory authorities are unlikely to need to impose or maintain SMP-based wholesale access obligations, beyond access to civil infrastructure, therefore reliance can be placed on the application of general competition rules. This applies a fortiori if both network operators offer reasonable commercial wholesale access. In both such cases, it may be more appropriate for national regulatory authorities to rely on specific monitoring on an ex post basis. Where on a forward-looking basis, three access network operators are present or are expected to be present and to sustainably compete in the same retail and wholesale markets (e.g. as can be the case for mobile, and as can occur in some geographic areas for fixed-line networks, especially where there is effective access to civil infrastructure and/or co-investment, such that three or more operators have effective control over the necessary access network assets to meet retail demand), national regulatory authorities will be less likely to identify an operator as having SMP, unless they make a finding of collective dominance, *or significant impediment to effective competition*, or if each of the undertakings in question has significant market power in distinct wholesale markets, such as in the case of voice call termination markets. The application of general competition rules in such markets characterised by sustainable and effective infrastructure-based competition should be sufficient.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 266
Kaja Kallas

Proposal for a directive

PE602.947v01-00

122/153

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Recital 177

Text proposed by the Commission

(177) Price control may be necessary when market analysis in a particular market reveals inefficient competition. In particular, operators with significant market power should avoid a price squeeze whereby the difference between their retail prices and the interconnection and/or access prices charged to competitors who provide similar retail services is not adequate to ensure sustainable competition. ***When a national regulatory authority calculates costs incurred in establishing a service mandated under this Directive, it is appropriate to allow a reasonable return on the capital employed including appropriate labour and building costs, with the value of capital adjusted where necessary to reflect the current valuation of assets and efficiency of operations.*** The method of cost recovery should be appropriate to the circumstances taking account of the need to promote efficiency, sustainable competition and deployment of very high capacity networks and thereby maximise end-user benefits, and should take in account the need to have predictable and stable wholesale prices for the benefit of all operators seeking to deploy new and enhanced networks, in accordance with Commission guidance³⁷.

³⁷ Commission Recommendation 2013/466/EU of 11 September 2013 on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment, OJ L 251, 21.9.2013, p. 13.

Amendment

(177) Price control may be necessary when market analysis in a particular market reveals inefficient competition. In particular, operators with significant market power should avoid a price squeeze whereby the difference between their retail prices and the interconnection and/or access prices charged to competitors who provide similar retail services is not adequate to ensure sustainable competition. The method of cost recovery should be appropriate to the circumstances taking account of the need to promote efficiency, sustainable competition and deployment of very high capacity networks and thereby maximise end-user benefits, and should take in account the need to have predictable and stable wholesale prices for the benefit of all operators seeking to deploy new and enhanced networks, in accordance with Commission guidance³⁷.

³⁷ Commission Recommendation 2013/466/EU of 11 September 2013 on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment, OJ L 251, 21.9.2013, p. 13.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 267
Kaja Kallas

Proposal for a directive
Recital 178

Text proposed by the Commission

Amendment

(178) Due to uncertainty regarding the rate of materialisation of demand for the provision of next-generation broadband services it is important in order to promote efficient investment and innovation to allow those operators investing in new or upgraded networks a certain degree of pricing flexibility. To prevent excessive prices in markets where there are operators designated as having significant market power, pricing flexibility should be accompanied by additional safeguards to protect competition and end-user interests, such as strict non-discrimination obligations, measures to ensure technical and economic replicability of downstream products, and a demonstrable retail price constraint resulting from infrastructure competition or a price anchor stemming from other regulated access products, or both. Those competitive safeguards do not prejudice the identification by national regulatory authorities of other circumstances under which it would be appropriate not to impose regulated access prices for certain wholesale inputs, such as where high price elasticity of end-user demand makes it unprofitable for the operator with significant market power to charge prices appreciably above the competitive level.

deleted

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Proposal for a directive
Recital 178

Text proposed by the Commission

(178) Due to uncertainty regarding the rate of materialisation of demand for the provision of next-generation broadband services it is important in order to promote efficient investment and innovation to allow those operators investing in new or upgraded networks a certain degree of pricing flexibility. To prevent excessive prices in markets where there are operators designated as having significant market power, pricing flexibility should be accompanied by additional safeguards to protect competition and end-user interests, such as *strict* non-discrimination obligations, measures to ensure technical and economic replicability of downstream products, and a demonstrable retail price constraint resulting from infrastructure competition *or a price anchor stemming from other regulated access products, or both*. Those competitive safeguards do not prejudice the identification by national regulatory authorities of other circumstances under which it would be appropriate not to impose regulated access prices for certain wholesale inputs, such as where high price elasticity of end-user demand makes it unprofitable for the operator with significant market power to charge prices appreciably above the competitive level.

Amendment

(178) Due to uncertainty regarding the rate of materialisation of demand for the provision of next-generation broadband services it is important in order to promote efficient investment and innovation to allow those operators investing in new or upgraded networks a certain degree of pricing flexibility. To prevent excessive prices in markets where there are operators designated as having significant market power, pricing flexibility should be accompanied by additional safeguards to protect competition and end-user interests, such as *effective* non-discrimination obligations, measures to ensure technical and economic replicability of downstream products, and a demonstrable retail price constraint resulting from infrastructure competition. *To this end, it is important to ensure that any safeguard limiting pricing flexibility does not negatively impact investments in new or upgraded networks. This includes, inter alia, that price controls based on retail prices must not lead to a level of regulated wholesale prices that does not allow to recover the costs connected to the deployment and operating of new networks and thus to a situation where the investing operator is put in a worse position than non-investing access seekers.* Those competitive safeguards do not prejudice the identification by national regulatory authorities of other circumstances under which it would be appropriate not to impose regulated access prices for certain wholesale inputs, such as where high price elasticity of end-user demand makes it unprofitable for the operator with significant market power to charge prices appreciably above the competitive level.

Amendment 269

Anna Záborská, Ivan Štefanec

Proposal for a directive

Recital 180

Text proposed by the Commission

Amendment

(180) *The charging system in the Union for wholesale voice call termination is based on Calling Party Network Pays. An analysis of demand and supply substitutability shows that currently or in the foreseeable future, there are as yet no substitutes at wholesale level which might constrain the setting of charges for termination in a given network. Taking into account the two-way access nature of termination markets, further potential competition problems include cross-subsidisation between operators. These potential competition problems are common to both fixed and mobile voice call termination markets. Therefore, in the light of the ability and incentives of terminating operators to raise prices substantially above cost, cost orientation is considered the most appropriate intervention to address this concern over the medium term.* **deleted**

Or. en

Amendment 270

Anna Záborská, Ivan Štefanec

Proposal for a directive

Recital 181

Text proposed by the Commission

Amendment

(181) *In order to reduce the regulatory burden in addressing the competition problems relating to wholesale voice call termination coherently across the Union, this Directive should lay down a common approach as a basis for setting price* **deleted**

control obligations, to be completed by a binding common methodology to be determined by the Commission and by technical guidance which should be developed by BEREC.

Or. en

Amendment 271

Anna Záborská, Ivan Štefanec

Proposal for a directive

Recital 182

Text proposed by the Commission

Amendment

(182) In order to simplify their setting and facilitate their imposition where appropriate, wholesale voice call termination rates in fixed and mobile markets in the Union shall be set by means of a delegated act. This Directive should lay down the detailed criteria and parameters on the basis of which the values of voice call termination rates are set. In applying that set of criteria and parameters, the Commission should take into account, inter alia, that only those costs which are incremental to the provision of wholesale call termination service should be covered; that spectrum fees are subscriber- and not traffic-driven and should therefore be excluded and that additional spectrum is mainly allocated for data and therefore not relevant for the call termination increment; that it is recognised that while in mobile networks a minimum efficient scale is estimated at the level of at least 20% market share, in the fixed networks smaller operators can achieve the same efficiencies and produce at the same unit costs as the efficient operator, independently of their size. When setting the exact maximum rate, the Commission should include appropriate weighting to take into account the total number of end-users in each Member State, where this is required on account of remaining cost divergences. When the

deleted

Commission determines that rate, the experience of BEREC and the national regulatory authorities in building suitable cost models will be invaluable and should be taken into account.

Or. en

Amendment 272

Anna Záborská, Ivan Štefanec

Proposal for a directive

Recital 183

Text proposed by the Commission

Amendment

(183) This Directive sets maximum wholesale voice call termination rates for fixed and mobile networks below which the initial delegated act will establish the exact rate to be applied by national regulatory authorities. The initial rate will be further updated. Based on the bottom-up pure LRIC models applied by national regulators to date and applying the above criteria the voice termination rates currently vary from 0.4045 €cent per minute to 1.226 €cent per minute in mobile networks and between 0.0430 €cent per minute and 0.1400 €cent per minute in fixed networks in the most local layer of interconnection (calculated as a weighted average between peak and off-peak rates). The variation in rates is due to different local conditions and relative price structures currently existing as well as to the different timing of the model calculations across Member States. In addition, in fixed networks the level of cost efficient termination rates depends also on the network layer where the termination service is provided.

deleted

Or. en

Amendment 273

Kaja Kallas

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Proposal for a directive
Recital 183

Text proposed by the Commission

(183) This Directive **sets** maximum wholesale voice call termination rates for fixed and mobile networks **below which** the initial delegated act will establish the exact rate to be applied by national regulatory authorities. The initial rate will be further updated. Based on the bottom-up pure LRIC models applied by national regulators to date and applying the above criteria the voice termination rates currently vary from 0.4045 €cent per minute to 1.226 €cent per minute in mobile networks and between 0.0430 €cent per minute and 0.1400 €cent per minute in fixed networks in the most local layer of interconnection (calculated as a weighted average between peak and off-peak rates). The variation in rates is due to different local conditions and relative price structures currently existing as well as to the different timing of the model calculations across Member States. In addition, in fixed networks the level of cost efficient termination rates depends also on the network layer where the termination service is provided.

Amendment

(183) This Directive **requires the Commission to set a** maximum wholesale voice call termination rates for fixed and mobile networks **through a delegated act**. The initial delegated act **required for that purpose** will establish the exact rate to be applied by national regulatory authorities. The initial rate will be further updated. Based on the bottom-up pure LRIC models applied by national regulators to date and applying the above criteria the voice termination rates currently vary from 0.4045 €cent per minute to 1.226 €cent per minute in mobile networks and between 0.0430 €cent per minute and 0.1400 €cent per minute in fixed networks in the most local layer of interconnection (calculated as a weighted average between peak and off-peak rates). The variation in rates is due to different local conditions and relative price structures currently existing as well as to the different timing of the model calculations across Member States. In addition, in fixed networks the level of cost efficient termination rates depends also on the network layer where the termination service is provided.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 274

Miapetra Kumpula-Natri, Dan Nica, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive
Recital 184

(184) Due to current uncertainty regarding the rate of materialisation of demand for very high capacity broadband services as well as general economies of scale and density, co-investment agreements offer significant benefits in terms of pooling of costs and risks, enabling smaller-scale operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient. ***Where an operator with significant market power makes an open call for co-investment on fair, reasonable and non-discriminatory terms in new network elements which significantly contribute to the deployment of very high capacity networks, the national regulatory authority should typically refrain from imposing obligations pursuant to this Directive on the new network elements, subject to further review in subsequent market analyses. Provided due account is taken of the prospective pro-competitive effects of the co-investment at wholesale and retail level, national regulatory authorities can still consider it appropriate, in light of the existing market structure and dynamics developed under regulated wholesale access conditions, and in the absence of a commercial offer to that effect, to safeguard the rights of access seekers who do not participate in a given co-investment through the maintenance of existing access products or – where legacy network elements are dismantled in due course – through imposition of access products with comparable functionality to those previously available on the legacy infrastructure.***

(184) Due to current uncertainty regarding the rate of materialisation of demand for very high capacity broadband services as well as general economies of scale and density, co-investment agreements ***can*** offer significant benefits in terms of pooling of costs and risks, enabling smaller-scale operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient.

Or. en

Amendment 275

Angelika Niebler, Herbert Reul

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Proposal for a directive
Recital 184

Text proposed by the Commission

(184) Angesichts der derzeitigen Ungewissheit, in welchem Maße sich die Nachfrage nach Breitbanddiensten mit sehr hoher Kapazität tatsächlich entwickeln wird, und der allgemeinen Größenvorteile und Dichte bieten Ko-Investitionsvereinbarungen beträchtliche Vorteile im Hinblick auf die Bündelung von Kosten und Risiken und ermöglichen es kleineren Betreibern, zu wirtschaftlich vertretbaren Bedingungen zu investieren und somit einen nachhaltigen, langfristig angelegten Wettbewerb auch in Gebieten zu fördern, in denen ein Infrastrukturwettbewerb möglicherweise nicht effizient ist. Veröffentlicht ein Betreiber mit beträchtlicher Marktmacht eine offene Ausschreibung für Ko-Investitionen in neue Netzbestandteile, die zum Ausbau von Netzen mit sehr hoher Kapazität beitragen, zu fairen, angemessenen und nichtdiskriminierenden Bedingungen, so sollten die nationalen Regulierungsbehörden vorbehaltlich einer weiteren Überprüfung im Rahmen anschließender Marktanalysen normalerweise von der Anwendung von Verpflichtungen auf diese neuen Netzbestandteile gemäß dieser Richtlinie absehen. Sofern die zu erwartenden wettbewerbsfördernden Auswirkungen der Ko-Investition auf der Vorleistungs- und der Endkundenebene gebührend berücksichtigt werden, können die nationalen Regulierungsbehörden sich dennoch dazu entschließen, angesichts der unter den Bedingungen des regulierten Vorleistungszugangs entstandenen Marktstruktur und -dynamik und sofern kein entsprechendes kommerzielles Angebot existiert, die Rechte von Zugangsinteressenten, die nicht an einem bestimmten Ko-Investitionsvorhaben beteiligt sind, durch die Aufrechterhaltung bestehender Zugangsprodukte oder – wenn

Amendment

(184) Angesichts der derzeitigen Ungewissheit, in welchem Maße sich die Nachfrage nach Breitbanddiensten mit sehr hoher Kapazität tatsächlich entwickeln wird, und der allgemeinen Größenvorteile und Dichte bieten Ko-Investitionsvereinbarungen beträchtliche Vorteile im Hinblick auf die Bündelung von Kosten und Risiken und ermöglichen es kleineren Betreibern, zu wirtschaftlich vertretbaren Bedingungen zu investieren und somit einen nachhaltigen, langfristig angelegten Wettbewerb auch in Gebieten zu fördern, in denen ein Infrastrukturwettbewerb möglicherweise nicht effizient ist. Veröffentlicht ein Betreiber mit beträchtlicher Marktmacht eine offene Ausschreibung für Ko-Investitionen in neue Netzbestandteile, die zum Ausbau von Netzen mit sehr hoher Kapazität beitragen, zu fairen, angemessenen und nichtdiskriminierenden Bedingungen, so sollten die nationalen Regulierungsbehörden vorbehaltlich einer weiteren Überprüfung im Rahmen anschließender Marktanalysen normalerweise von der Anwendung von Verpflichtungen auf diese neuen Netzbestandteile gemäß dieser Richtlinie absehen. Sofern die zu erwartenden wettbewerbsfördernden Auswirkungen der Ko-Investition auf der Vorleistungs- und der Endkundenebene gebührend berücksichtigt werden, können die nationalen Regulierungsbehörden sich dennoch dazu entschließen, angesichts der unter den Bedingungen des regulierten Vorleistungszugangs entstandenen Marktstruktur und -dynamik und sofern kein entsprechendes kommerzielles Angebot existiert, die Rechte von Zugangsinteressenten, die nicht an einem bestimmten Ko-Investitionsvorhaben beteiligt sind, durch die Aufrechterhaltung bestehender Zugangsprodukte oder – wenn

die alten Netzbestandteile in absehbarer Zeit abgebaut werden – durch die Verpflichtung zum Angebot von Zugangsprodukten zu schützen, die funktionell mit denjenigen vergleichbar sind, die zuvor für die alte Infrastruktur verfügbar waren.

die alten Netzbestandteile in absehbarer Zeit abgebaut werden – durch die Verpflichtung zum Angebot von Zugangsprodukten zu schützen, die funktionell mit denjenigen vergleichbar sind, die zuvor für die alte Infrastruktur verfügbar waren. ***Die nationalen Regulierungsbehörden legen in den jeweiligen Mitgliedstaaten klare Bedingungen für die Ko-Investitionen fest. Ko-Investitionen müssen verhindern, dass Ko-Investoren oder andere Unternehmen auf dem Markt wettbewerbliche Nachteile erleiden. Ko-Investitionen stellen einen offenen Zugang für alle Unternehmen, die sich daran beteiligen wollen, sicher.***

Or. de

Justification

Die Regulierungsbehörden müssen klare Bedingungen für die Ko-Investitionsmodelle festlegen.

Amendment 276

Kaja Kallas

Proposal for a directive

Recital 184

Text proposed by the Commission

(184) Due to current uncertainty regarding the rate of materialisation of demand for very high capacity broadband services as well as general economies of scale and density, co-investment agreements offer significant benefits in terms of pooling of costs and risks, enabling smaller-scale operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient. Where an operator with significant market power makes an open call for co-investment on fair, reasonable and non-discriminatory terms in new

Amendment

(184) Due to current uncertainty regarding the rate of materialisation of demand for very high capacity broadband services as well as general economies of scale and density, co-investment agreements ***could*** offer significant benefits in terms of pooling of costs and risks, enabling smaller-scale operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient. Where an operator with significant market power makes an open call for co-investment on fair, reasonable and non-discriminatory terms in new

network elements ***which significantly contribute to the deployment*** of very high capacity networks, the national regulatory authority should ***typically refrain from imposing obligations*** pursuant to this Directive on the new network elements, subject to further review in subsequent market analyses. Provided due account is taken of the prospective pro-competitive effects of the co-investment at wholesale and retail level, national regulatory authorities ***can*** still consider it appropriate, in light of the existing market structure and dynamics developed under regulated wholesale access conditions, and in the absence of a commercial offer to that effect, to safeguard the rights of access seekers who do not participate in a given co-investment through the maintenance of existing access products or – where legacy network elements are dismantled in due course – through imposition of access products with ***comparable*** functionality to those previously available on the legacy infrastructure.

network elements of very high capacity networks, the national regulatory authority should ***ensure that any obligation imposed*** pursuant to this Directive on the new network elements, ***are justified and proportionate*** subject to further review in subsequent market analyses, ***to the terms of the co-investment, the balance of powers between investors, and the risk that such agreements may strengthen position of significant market power or lead to the development of situations of significant impediment to effective competition***. Provided due account is taken of the prospective pro-competitive effects of the co-investment at wholesale and retail level, national regulatory authorities ***should*** still consider it appropriate, in light of the existing market structure and dynamics developed under regulated wholesale access conditions, and in the absence of a commercial offer to that effect, to safeguard the rights of access seekers who do not participate in a given co-investment through the maintenance of existing access products or – where legacy network elements are dismantled in due course – through imposition of access products with ***equivalent*** functionality to those previously available on the legacy infrastructure.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 277

Anna Záborská, Ivan Štefanec

Proposal for a directive Recital 184

Text proposed by the Commission

(184) Due to current uncertainty regarding the rate of materialisation of

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Amendment

(184) Due to current uncertainty regarding the rate of materialisation of

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demand for very high capacity broadband services as well as general economies of scale and density, ***co-investment agreements offer*** significant benefits in terms of pooling of costs and risks, enabling ***smaller-scale*** operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient. Where an operator with significant market power makes an open call for co-investment on fair, reasonable and non-discriminatory terms ***in new network elements*** which significantly contribute to the deployment of very high capacity networks, the national regulatory authority should typically refrain from imposing obligations pursuant to this Directive on the new network elements, ***subject to further review in subsequent market analyses***. Provided due account is taken of the prospective pro-competitive effects of the ***co-investment at wholesale and retail level***, national regulatory authorities can still consider it appropriate, in light of the existing market structure and dynamics developed under regulated wholesale access conditions, and in the absence of a commercial offer to that effect, to safeguard the rights of access seekers who do not participate in a given co-investment through the maintenance of existing access products or – where legacy network elements are dismantled in due course – through imposition of access products with comparable functionality to those previously available on the legacy infrastructure.

demand for very high capacity broadband services as well as general economies of scale and density, ***the regulatory framework aims at promoting very high capacity deployment models which (a) provide*** significant benefits in terms of pooling of costs and risks, enabling operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient; ***and (b) take into account the different market characteristics and best practices for deployment of new network elements within Member States***. Where an operator with significant market power makes an open call for co-investment ***or provides a wholesale offer including risk sharing, or establishes a joint venture with one or more undertakings competing on retail or wholesale level*** on fair, reasonable and non-discriminatory terms which significantly contribute to the deployment of very high capacity networks, the national regulatory authority should typically refrain from imposing obligations pursuant to this Directive on the new network elements. Provided due account is taken of the prospective pro-competitive effects of the national regulatory authorities can still consider it appropriate, in light of the existing market structure and dynamics developed under regulated wholesale access conditions, and in the absence of a commercial offer to that effect, to safeguard the rights of access seekers who do not participate in a given co-investment through the maintenance of existing access products or – where legacy network elements are dismantled in due course – through imposition of access products with comparable functionality to those previously available on the legacy infrastructure.

Or. en

Proposal for a directive
Recital 184

Text proposed by the Commission

(184) Angesichts der derzeitigen Ungewissheit, in welchem Maße sich die Nachfrage nach Breitbanddiensten mit sehr hoher Kapazität tatsächlich entwickeln wird, und der allgemeinen Größenvorteile und Dichte bieten Ko-Investitionsvereinbarungen beträchtliche Vorteile im Hinblick auf die Bündelung von Kosten und Risiken und ermöglichen es kleineren Betreibern, zu wirtschaftlich vertretbaren Bedingungen zu investieren und somit einen nachhaltigen, langfristig angelegten Wettbewerb auch in Gebieten zu fördern, in denen ein Infrastrukturwettbewerb möglicherweise nicht effizient ist. Veröffentlicht ein Betreiber mit beträchtlicher Marktmacht eine offene Ausschreibung für Ko-Investitionen in neue Netzbestandteile, die zum Ausbau von Netzen mit sehr hoher Kapazität beitragen, zu fairen, angemessenen und nichtdiskriminierenden Bedingungen, so sollten die nationalen Regulierungsbehörden vorbehaltlich einer weiteren Überprüfung im Rahmen anschließender Marktanalysen normalerweise von der Anwendung von Verpflichtungen auf diese neuen Netzbestandteile gemäß dieser Richtlinie absehen. Sofern die zu erwartenden wettbewerbsfördernden Auswirkungen der Ko-Investition auf der Vorleistungs- und der Endkundenebene gebührend berücksichtigt werden, können die nationalen Regulierungsbehörden sich dennoch dazu entschließen, angesichts der unter den Bedingungen des regulierten Vorleistungszugangs entstandenen Marktstruktur und -dynamik und sofern kein entsprechendes kommerzielles Angebot existiert, die Rechte von Zugangsinteressenten, die nicht an einem bestimmten Ko-Investitionsvorhaben beteiligt sind, durch die Aufrechterhaltung

Amendment

(184) Angesichts der derzeitigen Ungewissheit, in welchem Maße sich die Nachfrage nach Breitbanddiensten mit sehr hoher Kapazität tatsächlich entwickeln wird, und der allgemeinen Größenvorteile und Dichte bieten Ko-Investitionsvereinbarungen beträchtliche Vorteile im Hinblick auf die Bündelung von Kosten und Risiken und ermöglichen es kleineren Betreibern, zu wirtschaftlich vertretbaren Bedingungen zu investieren und somit einen nachhaltigen, langfristig angelegten Wettbewerb auch in Gebieten zu fördern, in denen ein Infrastrukturwettbewerb möglicherweise nicht effizient ist. Veröffentlicht ein Betreiber mit beträchtlicher Marktmacht eine offene Ausschreibung für Ko-Investitionen in neue Netzbestandteile, die zum Ausbau von Netzen mit sehr hoher Kapazität beitragen, zu fairen, angemessenen und nichtdiskriminierenden Bedingungen, so sollten die nationalen Regulierungsbehörden vorbehaltlich einer weiteren Überprüfung im Rahmen anschließender Marktanalysen normalerweise von der Anwendung von Verpflichtungen auf diese neuen Netzbestandteile gemäß dieser Richtlinie absehen. ***Entscheidet sich die nationale Regulierungsbehörde dafür, die Anwendung von Verpflichtungen nicht einzusetzen, muss sie sicherstellen, dass der Wettbewerb und Marktzutritt dadurch nicht beeinträchtigt wird.*** Sofern die zu erwartenden wettbewerbsfördernden Auswirkungen der Ko-Investition auf der Vorleistungs- und der Endkundenebene gebührend berücksichtigt werden, können die nationalen Regulierungsbehörden sich dennoch dazu entschließen, angesichts der unter den Bedingungen des regulierten Vorleistungszugangs entstandenen Marktstruktur und -dynamik und sofern

bestehender Zugangsprodukte oder – wenn die alten Netzbestandteile in absehbarer Zeit abgebaut werden – durch die Verpflichtung zum Angebot von Zugangsprodukten zu schützen, die funktionell mit denjenigen vergleichbar sind, die zuvor für die alte Infrastruktur verfügbar waren.

kein entsprechendes kommerzielles Angebot existiert, die Rechte von Zugangsinteressenten, die nicht an einem bestimmten Ko-Investitionsvorhaben beteiligt sind, durch die Aufrechterhaltung bestehender Zugangsprodukte oder – wenn die alten Netzbestandteile in absehbarer Zeit abgebaut werden – durch die Verpflichtung zum Angebot von Zugangsprodukten zu schützen, die funktionell mit denjenigen vergleichbar sind, die zuvor für die alte Infrastruktur verfügbar waren.

Or. de

Amendment 279

Gunnar Hökmark, Henna Virkkunen, Bendt Bendtsen

Proposal for a directive

Recital 184

Text proposed by the Commission

(184) Due to current uncertainty regarding the rate of materialisation of demand for very high capacity broadband services as well as general economies of scale and density, co-investment agreements offer significant benefits in terms of pooling of costs and risks, enabling smaller-scale operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient. Where an operator with significant market power makes an open call for co-investment on fair, reasonable and non-discriminatory terms in new network elements which significantly contribute to the deployment of very high capacity networks, the national regulatory authority should typically refrain from imposing obligations pursuant to this Directive on the new network elements, subject to further review in subsequent market analyses. Provided due account is taken of the prospective pro-competitive

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Amendment

(184) Due to current uncertainty regarding the rate of materialisation of demand for very high capacity broadband services as well as general economies of scale and density, co-investment agreements offer significant benefits in terms of pooling of costs and risks, enabling smaller-scale operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient. Where an operator with significant market power makes an open call for co-investment on fair, reasonable and non-discriminatory terms in new network elements which significantly contribute to the deployment of very high capacity networks, ***and such an offer is taken up by a co-investor and agreed upon, or when commercial access agreements based on the same preconditions have equivalent results,*** the national regulatory authority should typically refrain from imposing obligations

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effects of the co-investment at wholesale and retail level, national regulatory authorities can still consider it appropriate, in light of the existing market structure and dynamics developed under regulated wholesale access conditions, and in the absence of a commercial offer to that effect, to safeguard the rights of access seekers who do not participate in a given co-investment through the maintenance of existing access products or – where legacy network elements are dismantled in due course – through imposition of access products with comparable functionality to those previously available on the legacy infrastructure.

pursuant to this Directive on the new network elements, subject to further review in subsequent market analyses. Provided due account is taken of the prospective pro-competitive effects of the co-investment at wholesale and retail level, national regulatory authorities can still consider it appropriate, in light of the existing market structure and dynamics developed under regulated wholesale access conditions, and in the absence of a commercial offer to that effect, to safeguard the rights of access seekers who do not participate in a given co-investment through the maintenance of existing access products or – where legacy network elements are dismantled in due course – through imposition of access products with comparable functionality to those previously available on the legacy infrastructure.

Or. en

Amendment 280

Herbert Reul, Markus Pieper, Angelika Niebler

Proposal for a directive

Recital 184

Text proposed by the Commission

(184) Angesichts der derzeitigen Ungewissheit, in welchem Maße sich die Nachfrage nach Breitbanddiensten mit sehr hoher Kapazität tatsächlich entwickeln wird, und der allgemeinen Größenvorteile und Dichte bieten Ko-Investitionsvereinbarungen beträchtliche Vorteile im Hinblick auf die Bündelung von Kosten und Risiken und ermöglichen es kleineren Betreibern, zu wirtschaftlich vertretbaren Bedingungen zu investieren und somit einen nachhaltigen, langfristig angelegten Wettbewerb auch in Gebieten zu fördern, in denen ein Infrastrukturwettbewerb möglicherweise nicht effizient ist. **Veröffentlicht ein Betreiber mit beträchtlicher Marktmacht eine offene Ausschreibung für Ko-**

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Amendment

(184) Angesichts der derzeitigen Ungewissheit, in welchem Maße sich die Nachfrage nach Breitbanddiensten mit sehr hoher Kapazität tatsächlich entwickeln wird, und der allgemeinen Größenvorteile und Dichte bieten Ko-Investitionsvereinbarungen beträchtliche Vorteile im Hinblick auf die Bündelung von Kosten und Risiken und ermöglichen es kleineren Betreibern, zu wirtschaftlich vertretbaren Bedingungen zu investieren und somit einen nachhaltigen, langfristig angelegten Wettbewerb auch in Gebieten zu fördern, in denen ein Infrastrukturwettbewerb möglicherweise nicht effizient ist. **Werden offene Ausschreibung für Ko-Investitionen in neue Netzbestandteile, die von einem**

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Investitionen in neue Netzbestandteile, die zum Ausbau von Netzen mit sehr hoher Kapazität beitragen, zu fairen, angemessenen und nichtdiskriminierenden Bedingungen, so sollten die nationalen Regulierungsbehörden vorbehaltlich einer weiteren Überprüfung im Rahmen anschließender Marktanalysen normalerweise von der Anwendung von Verpflichtungen auf diese neuen Netzbestandteile gemäß dieser Richtlinie absehen. Sofern die zu erwartenden wettbewerbsfördernden Auswirkungen der Ko-Investition auf der Vorleistungs- und der Endkundenebene gebührend berücksichtigt werden, können die nationalen Regulierungsbehörden sich dennoch dazu entschließen, angesichts der unter den Bedingungen des regulierten Vorleistungszugangs entstandenen Marktstruktur und -dynamik und sofern kein entsprechendes kommerzielles Angebot existiert, die Rechte von Zugangsinteressenten, die nicht an einem bestimmten Ko-Investitionsvorhaben beteiligt sind, durch die Aufrechterhaltung bestehender Zugangsprodukte oder – wenn die alten Netzbestandteile in absehbarer Zeit abgebaut werden – durch die Verpflichtung zum Angebot von Zugangsprodukten zu schützen, die funktionell mit denjenigen vergleichbar sind, die zuvor für die alte Infrastruktur verfügbar waren.

Betreiber mit beträchtlicher Marktmacht ***zu fairen, angemessenen und nichtdiskriminierenden Bedingungen veröffentlicht wurden, genutzt, oder werden andere Investitionsmodelle, die gleichermaßen zum Ausbau von Netzen mit sehr hoher Kapazität beitragen, genutzt***, so sollten die nationalen Regulierungsbehörden vorbehaltlich einer weiteren Überprüfung im Rahmen anschließender Marktanalysen normalerweise von der Anwendung von Verpflichtungen auf diese neuen Netzbestandteile gemäß dieser Richtlinie absehen. Sofern die zu erwartenden wettbewerbsfördernden Auswirkungen der Ko-Investition auf der Vorleistungs- und der Endkundenebene gebührend berücksichtigt werden, können die nationalen Regulierungsbehörden sich dennoch dazu entschließen, angesichts der unter den Bedingungen des regulierten Vorleistungszugangs entstandenen Marktstruktur und -dynamik und sofern kein entsprechendes kommerzielles Angebot existiert, die Rechte von Zugangsinteressenten, die nicht an einem bestimmten Ko-Investitionsvorhaben beteiligt sind, durch die Aufrechterhaltung bestehender Zugangsprodukte oder – wenn die alten Netzbestandteile in absehbarer Zeit abgebaut werden – durch die Verpflichtung zum Angebot von Zugangsprodukten zu schützen, die funktionell mit denjenigen vergleichbar sind, die zuvor für die alte Infrastruktur verfügbar waren.

Or. de

Justification

Die tatsächliche Nutzung von wettbewerbsfördernden Investitionen sollte Anlass zu Deregulierung bieten, da die Förderung von wettbewerbsbasiertem Infrastrukturausbau einer Marktregulierung vorzuziehen ist. Bei der Bewertung sollten deshalb alle Investitionsmodelle, die einen nachhaltigen Wettbewerb fördern, gleichermaßen berücksichtigt werden.

Amendment 281

Anne Sander, Françoise Grossetête

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Proposal for a directive
Recital 184

Text proposed by the Commission

(184) Due to current uncertainty regarding the rate of materialisation of demand for very high capacity broadband services as well as general economies of scale and density, co-investment agreements offer significant benefits in terms of pooling of costs and risks, enabling smaller-scale operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient. Where an operator with significant market power ***makes an open call*** for co-investment on fair, reasonable and non-discriminatory terms in new network elements which significantly contribute to the deployment of very high capacity networks, the national regulatory authority should typically refrain from imposing obligations pursuant to this Directive on the new network elements, subject to further review in subsequent market analyses. Provided due account is taken of the prospective pro-competitive effects of the co-investment at wholesale and retail level, national regulatory authorities can still consider it appropriate, in light of the existing market structure and dynamics developed under regulated wholesale access conditions, and in the absence of a commercial offer to that effect, to safeguard the rights of access seekers who do not participate in a given co-investment through the maintenance of existing access products or – where legacy network elements are dismantled in due course – through imposition of access products with comparable functionality to those previously available on the legacy infrastructure.

Amendment

(184) Due to current uncertainty regarding the rate of materialisation of demand for very high capacity broadband services as well as general economies of scale and density, co-investment agreements offer significant benefits in terms of pooling of costs and risks, enabling smaller-scale operators to invest on economically rational terms and thus promoting sustainable, long-term competition, including in areas where infrastructure-based competition might not be efficient. Where an operator with significant market power ***concludes an agreement*** for co-investment on fair, reasonable and non-discriminatory terms in new network elements which significantly contribute to the deployment of very high capacity networks, the national regulatory authority should typically refrain from imposing obligations pursuant to this Directive on the new network elements, subject to further review in subsequent market analyses. Provided due account is taken of the prospective pro-competitive effects of the co-investment at wholesale and retail level, national regulatory authorities can still consider it appropriate, in light of the existing market structure and dynamics developed under regulated wholesale access conditions, and in the absence of a commercial offer to that effect, to safeguard the rights of access seekers who do not participate in a given co-investment through the maintenance of existing access products or – where legacy network elements are dismantled in due course – through imposition of access products with comparable functionality to those previously available on the legacy infrastructure.

Or. en

Proposal for a directive

Recital 190

Text proposed by the Commission

(190) Network owners that do not have retail market activities and whose business model is therefore limited to the provision of wholesale services to others, can be beneficial to the creation of a thriving wholesale market, with positive effects on retail competition downstream.

Furthermore, their business model can be attractive to potential financial investors in less volatile infrastructure assets and with longer term perspectives on deployment of very high capacity networks. Nevertheless, the presence of a wholesale-only operator does not necessarily lead to effectively competitive retail markets, and wholesale-only operators can be designated with significant market power in particular product and geographic markets. The competition risks arising from the behaviour of operators following wholesale-only business models might be lower than for vertically integrated operators, provided the wholesale-only model is genuine and no incentives to discriminate between downstream providers exist. The regulatory response should therefore be commensurately less intrusive. On the other hand, national regulatory authorities must be able to intervene if competition problems have arisen to the detriment of end-users.

Amendment

(190) Network owners that do not have retail market activities and whose business model is therefore limited to the provision of wholesale services to others, can be beneficial to the creation of a thriving wholesale market, with positive effects on retail competition downstream.

Furthermore, their business model can be attractive to potential financial investors in less volatile infrastructure assets and with longer term perspectives on deployment of very high capacity networks. ***Such models should therefore be promoted and encouraged. This category of network owners should not include undertakings that were either functionally separated or voluntary separated as incentives and remaining links with the customer base might still create competition concerns.*** Nevertheless, the presence of a wholesale-only operator does not necessarily lead to effectively competitive retail markets, and wholesale-only operators can be designated with significant market power in particular product and geographic markets. The competition risks arising from the behaviour of operators following wholesale-only business models might be lower than for vertically integrated operators, provided the wholesale-only model is genuine and no incentives to discriminate between downstream providers exist. The regulatory response should therefore be commensurately less intrusive. On the other hand, national regulatory authorities must be able to intervene if competition problems have arisen to the detriment of end-users.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 283

Anne Sander, Françoise Grossetête

Proposal for a directive

Recital 190

Text proposed by the Commission

(190) Network owners that do not have retail market activities and whose business model is therefore limited to the provision of wholesale services to others, can be beneficial to the creation of a thriving wholesale market, with positive effects on retail competition downstream.

Furthermore, their business model can be attractive to potential financial investors in less volatile infrastructure assets and with longer term perspectives on deployment of very high capacity networks. Nevertheless, the presence of a wholesale-only operator does not necessarily lead to effectively competitive retail markets, and wholesale-only operators can be designated with significant market power in particular product and geographic markets. The competition risks arising from the behaviour of operators following wholesale-only business models might be lower than for vertically integrated operators, provided the wholesale-only model is genuine and no incentives to discriminate between downstream providers exist. The regulatory response should therefore be commensurately less intrusive. On the other hand, national regulatory authorities must be able to intervene if competition problems have arisen to the detriment of end-users.

Amendment

(190) Network owners that do not have retail market activities and whose business model is therefore limited to the provision of wholesale services to others, can be beneficial to the creation of a thriving wholesale market, with positive effects on retail competition downstream. Nevertheless, the presence of a wholesale-only operator does not necessarily lead to effectively competitive retail markets, and wholesale-only operators can be designated with significant market power in particular product and geographic markets. The competition risks arising from the behaviour of operators following wholesale-only business models might be lower than for vertically integrated operators, provided the wholesale-only model is genuine and no incentives to discriminate between downstream providers exist. The regulatory response should therefore be commensurately less intrusive. On the other hand, national regulatory authorities must be able to intervene if competition problems have arisen to the detriment of end-users.

Or. en

Amendment 284

Kaja Kallas

Proposal for a directive

Recital 191

Text proposed by the Commission

(191) To facilitate the migration from legacy copper networks to next-generation networks, which is in the interests of end-users, national regulatory authorities should be able to monitor network operators' own initiatives in this respect and to establish, where necessary, an appropriate migration process, for example by means of prior notice, transparency and acceptable **comparable** access products, once the intent and readiness by the network owner to switch off the copper network is clearly demonstrated. In order to avoid unjustified delays to the migration, national regulatory authorities should be empowered to withdraw access obligations relating to the copper network once an adequate migration process has been established.

Amendment

(191) To facilitate the migration from legacy copper networks to next-generation networks, which is in the interests of end-users, national regulatory authorities should be able to monitor network operators' own initiatives in this respect and to establish, where necessary, an appropriate migration process, for example by means of prior notice, **setting out a concrete deadline**, transparency and acceptable **equivalent** access products, once the intent and readiness by the network owner to switch off the copper network is clearly demonstrated. In order to avoid unjustified delays to the migration, national regulatory authorities should be empowered to withdraw access obligations relating to the copper network once an adequate migration process has been established.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 285

Kaja Kallas

Proposal for a directive

Recital 223

Text proposed by the Commission

(223) In order to effectively support the free movement of goods, services and persons within the Union, it should be possible to use certain national numbering resources, in particular certain non-

Amendment

(223) In order to effectively support the free movement of goods, services and persons within the Union, it should be possible to use certain national numbering resources, in particular certain non-

geographic numbers, in an extraterritorial manner, that is to say outside the territory of the assigning Member State throughout the territory of the Union. In view of the considerable risk of fraud with respect to interpersonal communications, such extraterritorial use should be allowed for electronic communications services with the exception of interpersonal communications services. Member States should therefore ensure that relevant national laws, in particular consumer protection rules and other rules related to the use of numbers, are enforced independently of the Member State where the rights of use for numbers have been granted. That should entail that the national regulatory and other competent authorities of those Member States where a number is used are competent to apply their national laws to the undertaking to which the number has been assigned. In addition, the national regulatory authorities of those Member States should have the possibility to request the support of the national regulatory authority responsible for the assignment of the number to assist them in enforcing the respect of the rules applicable in those Member states where the number is used. Such support measures should include dissuasive sanctions, in particular in case of a serious breach the withdrawal of the right of extraterritorial use for the numbers assigned to the undertaking concerned. *The* requirements on extraterritorial use *should be* without prejudice to Member States' powers to block, on a case-by case basis, access to numbers or services where that is justified by reasons of fraud or misuse. The extraterritorial use of numbers should be without prejudice to Union's rules related to the provision of roaming services, including those relative to preventing anomalous or abusive use of roaming services which are subject to retail price regulation and which benefit from regulated wholesale roaming rates. Member States should continue to be able to enter into specific agreements on

geographic numbers, in an extraterritorial manner, that is to say outside the territory of the assigning Member State throughout the territory of the Union. In view of the considerable risk of fraud with respect to interpersonal communications, such extraterritorial use should be allowed for electronic communications services with the exception of interpersonal communications services. Member States should therefore ensure that relevant national laws, in particular consumer protection rules and other rules related to the use of numbers, are enforced independently of the Member State where the rights of use for numbers have been granted. That should entail that the national regulatory and other competent authorities of those Member States where a number is used are competent to apply their national laws to the undertaking to which the number has been assigned. In addition, the national regulatory authorities of those Member States should have the possibility to request the support of the national regulatory authority responsible for the assignment of the number to assist them in enforcing the respect of the rules applicable in those Member states where the number is used. Such support measures should include dissuasive sanctions, in particular in case of a serious breach the withdrawal of the right of extraterritorial use for the numbers assigned to the undertaking concerned. ***Member states should therefore not impose additional requirements on extraterritorial use of such numbers as it would hinder their crossborder use and create a barrier to the internal market,*** without prejudice to Member States' powers to block, on a case-by case basis, access to numbers or services where that is justified by reasons of fraud or misuse. The extraterritorial use of numbers should be without prejudice to Union's rules related to the provision of roaming services, including those relative to preventing anomalous or abusive use of roaming services which are subject to retail price regulation and which benefit from regulated wholesale roaming rates.

extraterritorial use of numbering resources with third countries.

Member States should continue to be able to enter into specific agreements on extraterritorial use of numbering resources with third countries.

Or. en

Justification

In accordance with rule 104 of the rules of procedure, this amendment is necessary for pressing reasons related to the internal logic of the text

Amendment 286

José Blanco López, Inmaculada Rodríguez-Piñero Fernández, Soledad Cabezón Ruiz

Proposal for a directive

Recital 246

Text proposed by the Commission

(246) Any changes to the contractual conditions ***imposed*** by providers of publicly available electronic communications services other than number-independent interpersonal communications services, to the detriment of the end-user, for example in relation to charges, tariffs, data volume limitations, data speeds, coverage, or the processing of personal data should be considered as giving rise to the right of the end-user to terminate the contract without incurring any costs, even if they are combined with some beneficial changes.

Amendment

(246) Any changes to the contractual conditions ***proposed*** by providers of publicly available electronic communications services other than number-independent interpersonal communications services, to the detriment of the end-user, for example in relation to charges, tariffs, data volume limitations, data speeds, coverage, or the processing of personal data should be considered as giving rise to the right of the end-user to terminate the contract without incurring any costs, even if they are combined with some beneficial changes.

Or. en

Amendment 287

Morten Helveg Petersen

Proposal for a directive

Recital 254

Text proposed by the Commission

(254) In line with the objectives of the Charter of Fundamental Rights of the

Amendment

(254) In line with the objectives of the Charter of Fundamental Rights of the

European Union and the United Nations Convention on the Rights of Persons with Disabilities, the regulatory framework should ensure that all users, including disabled end-users, the elderly, and users with special social needs, have easy access to affordable high quality services. Declaration 22 annexed to the final Act of Amsterdam provides that the institutions of the Union shall take account of the needs of persons with a disability in drawing up measures under Article 114 of the TFEU.

European Union and the United Nations Convention on the Rights of Persons with Disabilities, the regulatory framework should ensure that all users, including disabled end-users, the elderly, and users with special social needs, have easy access to affordable high quality services ***regardless of their place of residence within the Union***. Declaration 22 annexed to the final Act of Amsterdam provides that the institutions of the Union shall take account of the needs of persons with a disability in drawing up measures under Article 114 of the TFEU.

Or. en

Amendment 288
Barbara Kappel, Angelo Ciocca, Lorenzo Fontana

Proposal for a directive
Recital 259

Text proposed by the Commission

(259) Caller location information improves the level of protection and the security of end-users and assists the emergency services in the discharge of their duties, provided that the transfer of emergency communication and associated data to the emergency services concerned is guaranteed by the national system of PSAPs. The reception and use of caller location information should comply with relevant Union law on the processing of personal data. Undertakings that provide network-based location should make caller location information available to emergency services as soon as the call reaches that service, independently of the technology used. However handset-based location technologies have proven to be significantly more accurate and cost effective due to the availability of data provided by the EGNOS and Galileo Satellite system and other Global Navigation Satellite Systems and Wi-Fi data. Therefore handset-derived caller

Amendment

(259) Caller location information improves the level of protection and the security of end-users and assists the emergency services in the discharge of their duties, provided that the transfer of emergency communication and associated data to the emergency services concerned is guaranteed by the national system of PSAPs. The reception and use of caller location information should comply with relevant Union law on the processing of personal data. Undertakings that provide network-based location should make caller location information available to emergency services as soon as the call reaches that service, independently of the technology used. However handset-based location technologies have proven to be significantly more accurate and cost effective due to the availability of data provided by the EGNOS and Galileo Satellite system and other Global Navigation Satellite Systems and Wi-Fi data. Therefore handset-derived caller

location information should complement network-based location information even if the handset-derived location may become available only after the emergency communication is set up. Member States should ensure that the PSAPs are able to retrieve and manage the caller location information available. The establishment and transmission of caller location information should be free of charge for both the end-user and the authority handling the emergency communication irrespective of the means of establishment, for example through the handset or the network, or the means of transmission, for example through voice channel, SMS or Internet Protocol-based.

location information should complement network-based location information even if the handset-derived location may become available only after the emergency communication is set up. Member States should ensure that the PSAPs are able to retrieve and manage the caller location information available. The establishment and transmission of caller location information should be free of charge, *where feasible*, for both the end-user and the authority handling the emergency communication irrespective of the means of establishment, for example through the handset or the network, or the means of transmission, for example through voice channel, SMS or Internet Protocol-based.

Or. en

Amendment 289
Pervenche Berès, Edouard Martin

Proposal for a directive
Recital 265

Text proposed by the Commission

(265) Les utilisateurs finaux devraient pouvoir jouir d'une garantie d'interopérabilité pour l'ensemble des équipements commercialisés dans l'Union pour la réception de programmes de télévision numérique. Les États membres devraient être à même d'exiger l'adoption de normes harmonisées minimales en ce qui concerne ces équipements. Ces normes pourraient être adaptées de temps à autre pour tenir compte de l'évolution des technologies et des marchés.

Amendment

(265) Les utilisateurs finaux devraient pouvoir jouir d'une garantie d'interopérabilité pour l'ensemble des équipements commercialisés dans l'Union pour la réception de programmes de **radio et de** télévision numérique. Les États membres devraient être à même d'exiger l'adoption de normes harmonisées minimales en ce qui concerne ces équipements. Ces normes pourraient être adaptées de temps à autre pour tenir compte de l'évolution des technologies et des marchés.

Or. fr

Amendment 290
Pervenche Berès

Proposal for a directive
Recital 266 a (new)

Text proposed by the Commission

Amendment

(266 bis) Afin de permettre aux auditeurs de bénéficier de services de radio à travers toute Europe, indépendamment des normes de transmission utilisées dans différents États membres, les appareils de radio, y compris les appareils destinés aux véhicules, devraient être en mesure de recevoir de la radio par diffusion analogique et numérique et / ou par des réseaux IP. Cela garantira que l'interopérabilité, qui repose actuellement sur la radio FM, est maintenue à l'ère numérique. Cela améliorera également la sécurité publique en permettant aux auditeurs de recevoir des informations d'urgence indépendamment de la technologie utilisée, que ce soit à leurs domiciles ou dans les véhicules, ainsi que des informations routières lorsqu'ils voyagent dans l'Union.

Or. fr

Amendment 291
Pervenche Berès, Edouard Martin

Proposal for a directive
Recital 269

Text proposed by the Commission

Amendment

(269) Les États membres devraient être en mesure d'imposer aux entreprises sous leur juridiction, en considération d'intérêts publics légitimes **et uniquement lorsque cela est nécessaire** pour atteindre des objectifs d'intérêt général clairement définis par eux conformément au droit de l'Union, des obligations **qui devraient être** proportionnées et transparentes. Des obligations de reprise («must carry») peuvent être imposées en ce qui concerne certaines chaînes de radio et de **télévision**

(269) Les États membres devraient être en mesure d'imposer aux entreprises sous leur juridiction, en considération d'intérêts publics légitimes pour atteindre des objectifs d'intérêt général clairement définis par eux conformément au droit de l'Union, des obligations proportionnées et transparentes. Des obligations de reprise («must carry») peuvent être imposées en ce qui concerne certaines chaînes de radio et de **services média audiovisuels** et certains services complémentaires spécifiés fournis

et certains services complémentaires spécifiés fournis par un fournisseur de services de médias spécifié. Les obligations imposées par les États membres devraient être raisonnables; en d'autres termes, elles devraient être proportionnées et transparentes compte tenu d'objectifs d'intérêt général clairement définis. Il convient que les États membres justifient objectivement les obligations de reprise qu'ils imposent dans leur législation nationale, afin que ces obligations soient transparentes, proportionnées et clairement définies. ***Les obligations devraient être conçues de manière à créer des incitations suffisantes pour favoriser des investissements efficaces dans les infrastructures.*** Il convient de soumettre les obligations à un réexamen périodique au moins tous les cinq ans en vue de les actualiser en fonction de l'évolution des technologies et du marché, afin qu'elles restent proportionnées par rapport aux objectifs à atteindre. Les obligations pourraient, le cas échéant, s'accompagner d'une disposition prévoyant une rémunération proportionnée.

par un fournisseur de services de médias spécifié. Les obligations imposées par les États membres devraient être raisonnables; en d'autres termes, elles devraient être proportionnées et transparentes compte tenu d'objectifs d'intérêt général clairement définis, ***comme le pluralisme des médias ou la diversité culturelle. Ces mesures devraient inclure une bonne qualité de réception des services spécifiés.*** Il convient que les États membres justifient objectivement les obligations de reprise qu'ils imposent dans leur législation nationale, afin que ces obligations soient transparentes, proportionnées et clairement définies. Il convient de soumettre les obligations à un réexamen périodique au moins tous les cinq ans en vue de les actualiser en fonction de l'évolution des technologies et du marché, afin qu'elles restent proportionnées par rapport aux objectifs à atteindre. Les obligations pourraient, le cas échéant, s'accompagner d'une disposition prévoyant une rémunération proportionnée. ***Toute obligation de reprise ("must-carry") est établie indépendamment et ne porte nullement atteinte au droit des titulaires de droits d'auteurs ou de droits voisins de percevoir une juste rémunération pour l'utilisation de leurs travaux ou œuvres protégées sur le réseau concerné.***

Or. fr

Amendment 292
Pervenche Berès, Edouard Martin

Proposal for a directive
Recital 270

Text proposed by the Commission

(270) Les réseaux utilisés pour la diffusion publique d'émissions de radio ou ***de télévision*** comprennent les réseaux de télédistribution, l'IPTV et les réseaux de diffusion par satellite et terrestre. Ils

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Amendment

(270) ***Les obligations de reprise "must-carry" devraient s'appliquer d'une façon neutre sur le plan technologique, en tenant compte de la constante évolution des systèmes de distribution des médias et***

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peuvent également inclure d'autres réseaux dans la mesure où un nombre significatif d'utilisateurs finaux **utilisent ces réseaux comme leurs moyens principaux de réception d'émissions de radio ou de télévision**. Les obligations de reprise («must carry») peuvent comprendre la transmission de services spécialement destinés à permettre un accès convenable des utilisateurs handicapés. Les services complémentaires incluent dès lors, entre autres, des services destinés à améliorer l'accessibilité pour les utilisateurs finaux handicapés, tels que des services de vidéotexte, de sous-titrage, de description audio et de langue des signes. En raison de l'essor de la fourniture et de la réception de services de télévision connectée et de l'importance que conservent les guides électroniques de programmes pour le choix des utilisateurs, la transmission de données relatives aux programmes qui alimentent ces fonctionnalités peut être comprise dans les obligations de reprise.

des tendances de consommation. Les réseaux **et les services de communication électroniques et les services** utilisés pour la diffusion publique d'émissions de radio ou **services média audiovisuels** comprennent les réseaux de télédistribution, l'IPTV et les réseaux de diffusion par satellite et terrestre. Ils peuvent également inclure d'autres réseaux **et services**, dans la mesure où **ils sont utilisés par** un nombre significatif d'utilisateurs finaux **pour recevoir des de radio ou services média audiovisuels**.

Dans ce contexte, les critères pertinents du concept "un nombre significatif d'utilisateurs finaux ", devraient prendre en compte, en autres, les développements technologiques et les modes de consommation de groupes d'utilisateurs finaux particuliers.

Les obligations de reprise («must carry») peuvent comprendre la transmission de services spécialement destinés à permettre un accès convenable des utilisateurs handicapés. Les services complémentaires incluent dès lors, entre autres, des services destinés à améliorer l'accessibilité pour les utilisateurs finaux handicapés, tels que des services de vidéotexte, de sous-titrage, de description audio et de langue des signes. En raison de l'essor de la fourniture et de la réception de services de télévision connectée et de l'importance que conservent les guides électroniques de programmes **et d'autres facilités de navigation** pour le choix des utilisateurs, la transmission de données relatives aux programmes qui alimentent ces fonctionnalités peut être comprise dans les obligations de reprise.

Ces obligations de reprise devraient permettre l'accès des utilisateurs finaux aux services de télévision connectées, qui peuvent inclure les services médias audiovisuels, les services radio et audio, les services interactifs proposant des applications, des jeux, des votes, des clips, du texte, des images, illustrations et graphiques.

Amendment 293**Eva Kaili****Proposal for a directive****Recital 270***Text proposed by the Commission*

(270) Networks used for the distribution of radio or **television broadcasts** to the public include cable, IPTV, satellite and terrestrial broadcasting **networks**. They might also include other networks to the extent that a significant number of end-users ***use such networks as their principal means to receive radio and television broadcasts***. Must carry obligations can include the transmission of services specifically designed to enable appropriate access by disabled users. Accordingly complementary services include, amongst others, services designed to improve accessibility for **end-users** with disabilities, such as videotext, subtitling, audio description and sign language. Because of the growing provision and reception of connected TV services and the **continued** importance of electronic programme guides for user choice the transmission of programme-related data supporting those functionalities can be included in must carry obligations.

Amendment

(270) ***Must-carry obligations should be applied in a technologically neutral manner taking into account evolving media distribution systems and consumer trends.***

Electronic communications networks and services used for the distribution of radio or **audiovisual media services** to the public include cable, IPTV, satellite and terrestrial broadcasting. They might also include other networks **and services** to the extent that ***they are used by*** a significant number of end-users ***to receive radio and audiovisual media services. Relevant criteria for assessing the concept of "a significant number of end-users" in this context may take into account inter alia developments in technology and consumption patterns of specific end-user groups.***

Must carry obligations can include the transmission of services specifically designed to enable appropriate access by disabled users. Accordingly complementary services include, amongst others, services designed to improve accessibility for **end users** with disabilities, such as videotext, subtitling, audio description and sign language. Because of the growing provision and reception of connected TV services and the importance of electronic programme guides **and other navigation facilities** for user choice the transmission of programme-related data supporting those functionalities can be included in must carry obligations. **Must carry obligations should enable access for end-users to connected TV services.**

Or. en

Amendment 294

Miapetra Kumpula-Natri, Dan Nica, Edouard Martin, Zigmantas Balčytis, Victor Negrescu, Carlos Zorrinho, Jeppe Kofod

Proposal for a directive Recital 270

Text proposed by the Commission

(270) Networks used for the distribution of radio or **television broadcasts** to the public include cable, IPTV, satellite and terrestrial broadcasting **networks**. They might also include other networks to the extent that a significant number of end-users **use such networks as their principal means to receive radio and television broadcasts**. Must carry obligations can include the transmission of services specifically designed to enable appropriate access by disabled users. Accordingly complementary services include, amongst others, services designed to improve accessibility for **end-users** with disabilities, such as videotext, subtitling, audio description and sign language. Because of the growing provision and reception of connected TV services and the **continued**

Amendment

(270) **Must-carry obligations should be applied in a technologically neutral manner taking into account evolving media distribution systems and consumer trends.**

importance of electronic programme guides for user choice the transmission of programme-related data supporting those functionalities can be included in must carry obligations.

Electronic communications networks and services used for the distribution of radio or *audiovisual media services* to the public include cable, IPTV, satellite and terrestrial broadcasting. They might also include other networks *and services* to the extent that *they are used by* a significant number of end-users *to receive radio and audiovisual media services. Relevant criteria for assessing the concept of "a significant number of end-users" in this context may take into account inter alia developments in technology and consumption patterns of specific end-user groups.*

Must carry obligations can include the transmission of services specifically designed to enable appropriate access by disabled users. Accordingly complementary services include, amongst others, services designed to improve accessibility for *end users* with disabilities, such as videotext, subtitling, audio description and sign language. Because of the growing provision and reception of connected TV services and the importance of electronic programme guides *and other navigation facilities* for user choice the transmission of programme-related data supporting those functionalities can be included in must carry obligations. *Must carry obligations should enable access for end-users to connected TV services.*

Or. en

Amendment 295
Pervenche Berès, Edouard Martin

Proposal for a directive
Recital 270 a (new)

(270 bis) *Le concept de "guide électronique de programme" doit être entendu d'une manière dynamique en raison de la constante évolution des développements technologiques, des outils de présentation et de navigation sur les réseaux utilisés pour la distribution de la radio ou des services média audiovisuels et des services de télévision connectée; les développements dans ces services doivent également être pris en compte.*

Or. fr